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PROCEEDINGS

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## ADDENDUM

(FIFTY-FIFTH DAY — Friday, May 4, 2007)

The following remarks regarding **CSSB 101** were ordered reduced to writing and printed in the *Senate Journal*:

**Senator Shapiro:** Mr. President and Members, I move to suspend the Senate's regular order of business to take up and consider Committee Substitute to Senate Bill 101 at this time. I know none of you know what this bill does because you haven't been asking me about it for the last three weeks, but I'll be happy to explain it. This bill puts a cap on the automatic admissions, 50 percent of the incoming class at the universities that are within the top 10 percent rule will continue to be admitted based on top 10 percent. The next 10 percent of the students out of the top 10 percent must be admitted based on a holistic review, not simply on one criteria. Additionally, to be considered for automatic admission, the student must complete the recommended or the advanced high school curriculum. If the student, in the top 10 percent of their class, does not get into their first choice school because of the cap, then the student is automatically admitted to their second choice within that system. Institutions must also adopt a written policy on recruiting and retention of underrepresented groups and seek the input of community leaders when making the policy decisions. The institutions must inform all schools across the State of Texas on the projected percentile cap level, and the schools must inform their ninth-graders of the change in the law. The institutions that opt into this program shall use appropriated funds to award \$4 million a year in new financial aid to undergraduate students who enroll in these institutions. Institutions, including medical and dental units, must publish an annual report describing the composition of their class and any plans or policies that will be used to recruit underrepresented students. Mr. President, I move to suspend the Senate's regular order of business to take up and consider Committee Substitute to Senate Bill 101 at this time.

**President:** Thank you Senator Shapiro. Senator West, for what purpose do you rise, Sir?

**Senator West:** Question of the author.

**President:** Will Senator Shapiro yield to Senator West?

**Senator Shapiro:** I will.

**Senator West:** Senator Shapiro, I know that many of us have been going back and forth over this issue of top 10 percent, and I think that we need to slow down and talk about it for a few moments. I know that the original House Bill 588 was authored by State Representative Irma Rangel and it was sponsored in the Senate, the primary sponsor was Senator Gonzalo Barrientos. And when we begin to look at the top 10 percent, I know there are those who say, well, it's not working for ethnic minorities well, and we've debated that issue over and over again. Some of us believe that it is, in fact, working for ethnic minorities. Some say, well, it's working too good for Asians and not good enough for African Americans and not as, not like it should be working for Hispanics. Some say that it's a bill designed for rural students and that the rural students from rural schools have been benefiting from this. Some have questioned, attempted to question, whether or not students in the top 10 percent had been able to, kind of, carry their own load and had performed at the level that we expect them to perform at our institutions of higher education. And I just want to, I want to take a few moments and just kind of talk about those issues, because this is a change in a philosophy. And like we've done in the past, as it relates to higher education, when we had the Texas Tomorrow Fund, all of you kids, you go out, parents, save your money, go into the Texas Tomorrow Fund, we're going to make this particular pledge to you, and we're going to make certain that if you do this, we're going to make certain that you have tuition and fees to go to school. And then we found out years later that that particular fund was insolvent. But we made that commitment to the children of the State of Texas. We made that commitment. And many parents believed us when we made that commitment. We also took kids, 10 years ago, well, you need to get in the top 10 percent, and if you do the things that we want you to do, you pass these tests, you're the cream of the crop, regardless of where you come from. But if you're in the top 10 percent, what we say to you is that we will give you, we will allow you to go to any state-supported institution of higher education in the State of Texas. UT came along about six years ago and said, you know, the sky's falling, that we're having a problem with the capacity over at Texas. And we found out that during that particular session what they ended up doing was reducing the number of students that they allowed in the institution. Well we kept on working on the issue of capacity. Last session, we dealt with the issue and it was a strong bloc of votes not to do anything with the top 10 percent rule, even though there were those that continued to say that the sky is falling. And they introduced a new argument. And the argument was, is that what Texas was doing, because this was a UT issue, that what was happening was, is that Texas was basically admitting students that were less prepared than others and some of the students and, quote, unquote, the more competitive schools were leaving the state. That was their argument that was introduced last session. Some of the same arguments exist as of today. And in the Senate, it appears as though that there is a division, if you will, as it relates to what we need to do about this issue, and I respect this body because I've been here with you some number of years now. And, so the reality is, how do we come together and attempt to do what's in the best interest of the State of Texas as it relates to this particular issue? And I've kind of stood shoulder to shoulder with many of my rural colleagues on this particular issue because I wanted to make certain that all students, regardless of what part of the state they're from, if indeed they are doing what we've

asked them to do, as it relates to taking the recommended high school curriculum, college curriculum, and they're in the top 10 percent, that they should have the ability to go to any school in the State of Texas, and so we're kind of changing that today. And I mean, you know, if, and that's what we're doing. We're changing. And we're changing at the insistence of The University of Texas and many of the members on their Board of Regents. Even though, when you begin to look at the numbers, in many instances it's working. I know that there will be those that will say, well, there have been reviews of the top 10 percent, and it's not working. Well the reality is that when President Gates, now the Secretary of Defense Gates, put some money behind his effort to attract students at A&M, it begun working somewhat. And I know that we have a Longhorn Opportunity Scholarship, and when we've had active recruitment of these students, it's begun to work somewhat, also. You know, when you begin to look at the pipeline, and I, the way I define pipeline is kind of synonymous with how Senator Shapleigh used to define it. In terms of ethnic minority students, you will see that in 2006, I think it is, is that over 5,000 Hispanic youth applied to The University of Texas. You'll see that close to 2,000 African American youth applied to The University of Texas. So that pipeline is starting to fill up. Students are beginning to believe that they can, in fact, attend The University of Texas. And, so what we do today, and I know many of us have been contacted by many people on all sides of this particular issue, and I know that many of us will say, well, when we begin to look at the number of students that are attending The University of Texas from our district, we've seen some of the increase, some of our districts have decreased, but the reality is, is that Texas is beginning to look more like Texas, and what do I mean by that? When you begin to look at the issue of Texas and its diversity, both geographically and ethnic diversity, you will see that Texas, The University of Texas today is the most diverse that it's ever been in its entire history. That's what you see. And, Members, when you look at the numbers, you see that, as it relates to high schools, that prior to the top 10 percent, or prior to 1996, about half of the students that attended The University of Texas came from, I think it is about 64 high schools, and that at the top 10 percent, that number went up, I think it's over 800 high schools now. And, so you begin to see that more and more students are getting the opportunity to get an education here at The University of Texas here in Austin. And don't kid yourself, education is not just in the classroom but is also the interaction between the faculty and also the students and the camaraderie in the relationships that are built. And, so you see, it's working. It is, in fact, working. The policy decision that we make today is a decision that will change the top 10 percent. I can count, and I know what the numbers look like, and that's why I'm glad that even though I will still stand firm, if I had the votes on top 10 percent, the reality is, is that a compromise is needed in order to move forward on this particular bill. And, so the compromise that we are about to discuss, is whether or not to cap it at 50, go up to 60, allow holistic review. But I want to make certain that we talk about it, because, again, we talk about the holistic review, and in order to use race as a factor, and we predicate that on the Supreme Court ruling in a couple of Michigan cases where you had a 5-4 decision. And we still don't know what's going to happen with this particular Supreme Court, how it will apply on the use of race in any institutional setting. So again, that's a, something that we don't know and, obviously, we'll have to wait and see. We also

need to make certain that as we look at the top 10 percent, and look at this compromise, how do we review whether or not The University of Texas, or any other school, institution that uses this particular tool, whether or not they are, in fact, making a good faith effort, and whether or not diversity has taken a back seat to other priorities. That's why it's important that we have a sunset provision in the bill and put an onus on the back of The University of Texas and any other institution, come back to this Legislature within a reasonable period of time to show us that they have not reversed the position on diversity. And, so at the appropriate time, Senator Shapiro, what I want to make certain is that we read into the record, and then I'm going to ask that after the debate is over with, that all of the debate be reduced to writing and spread upon the Journal, so that there can be a record exactly on this particular day, Cinco de Mayo is when, tomorrow, OK, on May the 4th, and we also, on Cinco de Mayo, when Mario Gallegos is Governor of the State of Texas, where we were on this issue of top 10 percent. And as we debate this issue, Members, I hope that you kind of, you think about what Irma Rangel would think about the debate and where she would be on this particular issue as it relates to trying to bring together, to look at another law in the State of Texas that we have promulgated and said, students, do the best that you can do. And if you do the best that you can do, we make you this promise: that you can go to any state-supported institution of higher education in the State of Texas. We, as policymakers, obviously, must look at these issues, and that's what we're doing today. And, so I hope that as we debate this issue, that we make certain that we debate the issue, look at the merits of it, and then come up with a consensus as this Senate so often does under the leadership of David Dewhurst.

**President:** Senator Nelson, for what purpose do you rise, Ma'am?

**Senator Nelson:** A question of the Senate sponsor.

**President:** Will Senator Shapiro yield to a question from Senator Nelson?

**Senator Shapiro:** I would relish a question, Senator Nelson.

**Senator Nelson:** For two or so. Senator Shapiro, what year did we enact the top 10 percent rule?

**Senator Shapiro:** I believe it was 1997.

**Senator Nelson:** So we've had 10 years under—

**Senator Shapiro:** Correct.

**Senator Nelson:** The law as it stands right now. And you and I both remember the discussions and Senator West was there, a number of us were there, and I think we all agreed that there was a problem that needed to be addressed and that the 10 percent rule approach, at the time, was the best solution that we could come up with at the time.

**Senator Shapiro:** At the time when there was a Supreme Court ruling that put us in a box that we had to find a way out of.

**Senator Nelson:** Right, right.

**Senator Shapiro:** But it no longer exists, by the way.

**Senator Nelson:** I remember well. And, you know, we all have votes we wish we could recall, and I have to tell you, Senator Shapiro, this is one of my top votes that I wish I could recall, because I was very focused on addressing the issue that we were addressing because of the court ruling, and I didn't think far enough ahead about the impact this was going to have on some school, some students that I represent, some of the rest of us represent, that are students in our very large high schools. You, Senator Shapiro, I know have a number of these, I do, and the impact that it, the 10 percent rule would have on those students. Senator Shapiro, I appreciate your hard work on this legislation, and I am going to support it because I think it is a step in the right direction. It doesn't fully achieve what I would like to achieve for the students that I represent, and I wanted to share with my colleagues some of the phone calls that I get. The parents that call me, who are, some irate, some crying because their student, who has done everything they were supposed to do, Senator West referred earlier to the promise that we make our students, saying, do the best you can do and we'll find a spot for you, and these are students who have done beautifully in honors classes, 4 point GPA, perfect SAT score, and they are told, because you're not in the top 10 percent of your class, we don't have a place for you in the university of your choice in Texas. I have a large number of those students, and it's killing me to try to explain to those parents why I voted for legislation 10 years ago that put their child in that position. Senator Shapiro, and I know you're familiar, you probably get those same calls because we have some high schools that had over 3,000 students in those high schools, some very high achieving students who take all honors courses, I am told that one of my mega high schools had more students who achieved greater than a 4 point GPA, because of their honors classes they were taking, than there were spots in the top 10 percent. In other words, there were students who didn't make their top 10 percent who had 4 point GPA, great SAT score, and so we don't have a spot assured for them in our high school. I also talked to parents in my Senate district who have students in private school who don't rank, don't have a class rank. So we don't have a spot for those students. We have to do something to deal with the needs of those students. And, Senator, I applaud you, I appreciate what you're doing, I'm going to vote for the bill, but I'm going to ask you, while we meet the needs of a certain segment of our students and approach dealing with that problem and finding solutions, that you also consider the concerns of the students and their parents of mine who are calling and crying, because their baby's going out of state to college because we didn't have a spot for them in one of our fine schools. So thank you Senator.

**Senator Shapiro:** Thank you very much. I do want to mention and just to validate what you've said, in 1996, before we started the top 10 percent, 42 percent of the students going to The University of Texas were out of the top 10 percent class. Of course, it was a holistic approach, but they were in the top 10 percent. Today, 10 years later, as you just suggested, 71 percent of the freshman class is actually top 10 percent, leaves very little room for those students that you and I have in our district.

**Senator Nelson:** Let me ask you one other question—

**Senator Shapiro:** Yes.

**Senator Nelson:** While I still have the question. You mentioned, in your introductory comments, that this bill has \$4 million a year in new financial aid, what is that?

**Senator Shapiro:** Yes. It's just, at one time we talked about making it a set aside for some more scholarships. In the compromise that we reached, we said it was going to be out of GR or funds appropriated and it was for all students. It was no set aside, it was no raising of anybody else's tuition, it was simply a little more money to be able to meet the needs and scholarships across the board.

**Senator Nelson:** What criteria will be—

**Senator Shapiro:** No criteria, at the discretion of the university. No means testing or anything.

**Senator Nelson:** OK, thank you, Senator.

**Senator Shapiro:** You're welcome.

**President:** Senator Deuell, for what purpose do you rise, Sir?

**Senator Deuell:** Ask the author a question, Mr. President.

**President:** Will Senator Shapiro yield?

**Senator Shapiro:** I do.

**Senator Deuell:** Senator Shapiro, you've done a lot for education. I really appreciate that and I've had mixed emotions for a long time about the 10 percent rule because it does benefit a good part of my district, which runs actually from the City of Dallas out to counties like Delta and Hopkins, and the more rural part of the districts feel that they really, really benefit, the more inner-city part of my district benefits, the more affluent urban, suburban areas, sort of your situation, that they're very much like Collin County, and so it's a tough issue for all of us. What's the right number? What's the percent? One, I did want to clarify some numbers. The number that we get is at 71 percent of the entering freshman class are coming in under the top 10 percent rule. Is that not, though, of the Texans admitted to the universities, of freshman class, and not all their admission, their freshman class?

**Senator Shapiro:** I believe, actually, it is of 100 percent, but what you're referencing is the 8 percent that are from out of state. And I guess, if you factor all of that together, I think that's what you're referencing, but there are 8 percent that are out of state students.

**Senator Deuell:** But is the 71 percent of 100 percent of their admission class, or is it 71 percent of the 92 percent?

**Senator Shapiro:** It's my understanding it's 100 percent. It's 71 percent of 100 percent. If you looked at the 92 percent, it's only 65 percent—

**Senator Deuell:** Yes, that's—

**Senator Shapiro:** Of the Texas students.

**Senator Deuell:** Yes, I got 62 and then your bill, which caps it at 50 percent and then gives holistic discretion the next 10 percent, would that be of the 100 percent of the entering class, or the 92 percent or so of Texans.

**Senator Shapiro:** I'm thinking it's probably the 92 percent.

**Senator Deuell:** Ninety-two percent.

**Senator Shapiro:** Because these are students in Texas. So it's not like a whole class, which is a whole entering freshman class, as you asked on the last one, this is the students in Texas that are going to come in under that approach, so I'm going to say it's the 92 percent, is what I'm guessing.

**Senator Deuell:** Well, you know, I can understand The University of Texas wanting to admit people that maybe aren't in top 10 percent of the class, or people that are really strong academically, but were not in there. I met a kid, (inaudible) kid, he's a senior at a nearby high school that was working as a clerk in one of the outlet malls, and he's a track, he runs track, and he was accepted to The University of Texas, and he was elated. And he's a good kid. I mean, they'll be proud to have him and he'll do well, but he was sweating bullets because he said he didn't really think he'd get in, that his counselors didn't think he would get in because even though he was well-rounded, had done a lot of extracurricular activities, had mentioned a lot of those to me, and ran track, he wasn't in the top 10. And he was elated that he got in, but the university tells me that they don't, they have less and less leeway to accept students like that. I certainly wasn't in the top 10 percent of my class. I was probably in top 10 percent in some categories that probably wouldn't be desirable for getting one into college, but did well when I was there, but you think, when the university looks at this other 10 percent, from the top 10 percent, did they, what did they tell you that they wanted to look at? Did they want to look at SAT scores, did they want to look at extracurricular activities?

**Senator Shapiro:** We talked a little bit about what they want to look at. They didn't really specify a preference, but they will look at such things as test scores, special talents, leadership skills, civic involvement, personal achievement, anything that's also relevant to any type of academic environment. Are they on the debate team in high school? Have they been involved in thespians? Are they, you know, other factors besides one criteria and that one criteria is the top 10 percent.

**Senator Deuell:** So will it be the same criteria that they look at for the other students, the other, I guess 29 percent—

**Senator Shapiro:** Yes, yes.

**Senator Deuell:** But, basically, there'll be no difference—

**Senator Shapiro:** There'll be more room for that when we push the number up a little bit higher so the group that they will now be able to choose from can have a round, a rounding effect of all of these different talents rather than one criteria, one single criteria.

**Senator Deuell:** OK, thank you. Thank you Mr. President.

**Senator Shapiro:** Thank you.

**President:** The Chair recognizes Senator West to explain Floor Amendment No. 1.

**Senator West:** Mr. President. Members, what this does is, this will sunset the cap provision that we're placing in the bill, it will sunset it August 31st, 2015, and during that period of time, we'll have an opportunity to look at exactly what efforts The University of Texas at Austin, or other institutions are taking in order to increase diversity. And on September the 1st, 2015, the top 10 percent rule would be back in,

the top 10 percent rule would be back in place as the law of the State of Texas. And, so, essentially, what this does, Members, is exactly what I mentioned a few moments ago, is that it keeps the pressure on The University of Texas or any other institution to come back to the Legislature, to show that they are doing what we want them to do, as it relates to maintaining diversity at The University of Texas or any other institution of higher education in the State of Texas. I move adoption of the amendment.

**President:** Senator Nelson, for what purpose do you rise, Ma'am?

**Senator Nelson:** Question of the author of the amendment.

**President:** Will Senator West yield to Senator Nelson?

**Senator West:** Yes.

**Senator Nelson:** Senator West, this is basically an amendment that sunsets what Senator Shapiro is proposing in this bill.

**Senator West:** That's correct.

**Senator Nelson:** OK. And you are, and it doesn't do anything else other than sunset what the bill is proposing to do.

**Senator West:** It sunsets it and puts the top 10 percent back into place.

**Senator Nelson:** OK. So you believe in the theory that we need to, based on what you just told us in laying out the amendment, you think that we need to reexamine this and come back in, whatever—

**Senator West:** 2015.

**Senator Nelson:** In 2015.

**Senator West:** You know, we'll be here. We'll be here.

**Senator Nelson:** So you do believe that this should be reexamined?

**Senator West:** I do, let me tell you why.

**Senator Nelson:** Well, let me ask you why you picked the year 2015?

**Senator West:** Well because that's the best I could get, to be honest with you. That's the reason I picked it, it's the best I could get.

**Senator Nelson:** I have a deal for you.

**Senator West:** Well, OK, well, I've already cut my deal, but that's all right, you know. I mean, realistically, what happens is this. I think that we've got to keep pressure on the system to address the issue of admissions. Admissions, as long as we've been down here, Senator Nelson, has always been a problem. Whatever criteria we've used has always been an issue as it relates to who gets in and who doesn't get in at The University of Texas, who gets in, who doesn't get in at A&M. And, so it's always an issue. Top 10 percent was put in place for reasons that you've already articulated in part, and, so we shouldn't lose ground, and some persons have argued, well, we shouldn't have this provision in here because we can always come back and pass another law. Well, have you ever tried to pass a law in this body? We can pass a bill—



**Senator Nelson:** Several times.

**Senator West:** I understand, yeah, right. But you know what it takes in order to do that. And I think that the onus should be on the back of those institutions that are using this particular statute to show us that is, in fact, working, and if they come back down and show us that it's working, then we could give them another cap and see what they do as it relates to that particular cap, and that's the beauty of this particular amendment, as I see it.

**Senator Nelson:** Senator West, I wholeheartedly agree with you that we need to come back and reexamine the system, and I think 2015 is way too late. I think we need to come back in two years and reexamine this because I do think that 10 years ago, this is the best we could come up with. Senator Shapiro is putting before us today the best that we can come up with today. In two years, I am hoping that if you would accept an amendment to your amendment, we can come back in two years and reexamine this whole top 10 percent issue. So, if it is agreeable, I would like to offer an amendment to your amendment that would ask us in two years to sunset all of this and sit down and talk about a solution that we can propose to the next Legislature that will provide a solution for our needs, for all of our children today, a solution that will work for the students that you represent, a solution that will work for the students that I represent. So, I, Mr. Chairman, at the appropriate time, I have an amendment to Senator West's amendment that I would like to offer, that basically sunsets the whole top 10 percent rule in 2009.

**Senator West:** Well, obviously, that would not be something I would agree with, but you know, again, you have, obviously, have the right to offer the amendment to the amendment for that particular purpose.

**Senator Nelson:** Why would you not, didn't you just say you thought that we needed to keep pressure on the system, that we needed to reexamine things when you laid out this amendment?

**Senator West:** Did you not—

**Senator Nelson:** That we needed to look closely and, Senator, what worked 10 years, doesn't necessarily work today. Our focus 10 years ago was on a specific problem, and I am proposing to you today that I have literally hundreds of students that I represent that this having a negative reaction on it. This is disallowing them from getting into a school in Texas that they want to go to.

**Senator West:** Senator, let me ask you this. How many of the students out of your district are in the top 10 percent?

**Senator Nelson:** Senator, I don't have those numbers. I think you'll probably tell me in a minute, but I would respond to you that I have a huge number of students who have fabulous class ranking, test scores, GPA, who did not make the top 10 percent. I wish I had that number to show you.

**Senator West:** I, I really, I really do, too, because—

**Senator Nelson:** Because I don't think you fully realize—

**Senator West:** I think, that if you look at it, you'll see that many of the students, you've got great students in your district, are getting into institutions of higher education in the State of Texas. Those that are leaving, most of them are probably leaving because of legacy. Some of them are going to Harvard, some of them are going to Stanford.

**Senator Nelson:** No, Sir, no, Sir, these are middle class students—

**Senator West:** I mean, the fact, the fact is that when you—

**Senator Nelson:** Whose dream has been—

**Senator West:** Begin to look at it, look at the financial—

**Senator Nelson:** To go to one of our premier institutions—

**Senator West:** The other issue is—

**Senator Nelson:** They get 4 point GPA—

**Senator West:** Financial assistance.

**Senator Nelson:** They have excellent SAT scores—

**Senator West:** If we give better financial assistance—

**Senator Nelson:** And they can't get in because of this law.

**Senator West:** Without students because if we give better financial assistance to students, then many students will probably end up staying here in the State of Texas. When you begin to compare the State of Texas, Senator Nelson, with other states, you would, let me give you an example. University of Michigan, UC Berkeley, those schools, they have a higher percentage of top 10 percent students than The University of Texas at Austin. And guess what, most of those top 10 percent students, you know where they come from, within the respective states of those institutions. So even though they may not have a quote, unquote, law, in place in those states, the majority of their top 10 percent students are coming from within the state and they have a higher percentage than the state of, than The University of Texas, a premier institution. And, so, I mean, you and I, we disagree on this particular issue as it relates to what we should do with the top 10 percent. You, obviously, want to repeal it. I don't think we should repeal it. I'm willing to work on a reasonable solution with Senator Shapiro, as it relates to trust and then verify, and if we, and if the verification isn't the way we want, then we allow them to come back and tell us why we should trust them again.

**Senator Nelson:** Senator West, let me ask you what you would tell the parent of a student who is getting ready to graduate, who has higher than a 4 point GPA, taking honors classes, an outstanding SAT score, and they didn't get accepted into one of our Texas premier institutions because—

**Senator West:** You know—

**Senator Nelson:** There wasn't room for them.

**Senator West:** You said, you say that—

**Senator Nelson:** What would you tell that family?

**Senator West:** You, you have a student that's over 4.0 and they did not get accepted?

**Senator Nelson:** I have many—

**Senator West:** I would, you know—

**Senator Nelson:** Students.

**Senator West:** Frankly, I would like to sit down with you and, as it relates to those students, we need to figure out what schools they applied to that didn't have—

**Senator Nelson:** I'll tell you, no—

**Senator West:** Hold up, hold on a second, hold on a second, that didn't have the good sense to accept them under some criteria. See, the reality is this, the reality is, is that even though, and I don't know, what year that this occurred.

**Senator Nelson:** Senator, it has occurred to a greater and greater extent every year since we've passed this law.

**Senator West:** OK, well, the university, if it's, and you're saying it's The University of Texas or you're saying it's A&M, which one?

**Senator Nelson:** I'm not naming names, but I will tell you—

**Senator West:** Well, I mean, but you—

**Senator Nelson:** It's in very close proximity.

**Senator West:** But you've asked me to answer a question, and so I'm trying to be as specific as I can, in terms of answering the question, and the reason I'm asking those questions is, is that both of those institutions, UT has said they have the greatest problem, is they've had discretion to allow—

**Senator Nelson:** Senator, they don't have enough—

**Senator West:** To exempt.

**Senator Nelson:** Empty spaces to provide, yeah—

**Senator West:** Well, I mean, if you have the students—

**Senator Nelson:** (inaudible) They may—

**Senator West:** Senator Nelson, Senator Nelson.

**Senator Nelson:** If I call, for that one student—

**Senator West:** Senator Nelson.

**Senator Nelson:** But we have—

**Senator West:** Senator Nelson.

**Senator Nelson:** I'm telling you, hundreds.

**Senator West:** Senator Nelson. If you have a student with a 4.0 plus, plus—

**Senator Nelson:** Yes, yes.

**Senator West:** That student would end up getting into UT, and that's why I'm asking you—

**Senator Nelson:** Senator, here's—

**Senator West:** You've said that that occurs—

**Senator Nelson:** It does—

**Senator West:** Just give me some examples where it's occurred and then you and I—

**Senator Nelson:** I can get— (inaudible)

**Senator West:** You and I, hand to hand, shoulder to shoulder—

**Senator Nelson:** Yes.

**Senator West:** Ivory and ebony will go—

**Senator Nelson:** Yes.

**Senator West:** Walk hand in hand to make certain—

**Senator Nelson:** Ebony and ivory, let me tell you—

**Senator West:** OK, and to make certain—

**Senator Nelson:** Here's the— (inaudible)

**Senator West:** That that's not occurring because we have students with grade point averages in excess of 4.0—

**Senator Nelson:** Yes.

**Senator West:** We should be trying to keep in the State of Texas.

**Senator Nelson:** Amen. This is why I would like for you, Senator, to stand with me and not repeal the 10 percent law. That's not what I'm asking. What I'm asking is for you to accept an amendment that will say in two years it will, actually, two-plus years, in August of '09, we will be forced to reexamine this. I listened to you and I voted for the 10 percent rule because I listened to your concerns when they were, were right in front of us and important to address. I'm asking you to listen to the concerns of my constituents. I think you really would be surprised. I don't think anybody here realizes the phone calls that I'm getting, parents who are either crying and really upset—

**Senator West:** Got a deal—

**Senator Nelson:** Or they are mad and really upset—

**Senator West:** Got a deal for you. Why don't we—

**Senator Nelson:** Because their baby is leaving the state.

**Senator West:** Why don't we look at those issues over the interim together?

**Senator Nelson:** Deal.

**Senator West:** OK.

**Senator Nelson:** And this will force us to look at it, Senator, and this will say—

**Senator West:** Let's go ahead and—

**Senator Nelson:** We will sunset this.

**Senator West:** Let's go ahead and pass this amendment as it is, look at those specific instances, and then make the adjustments. I can assure you, if you and I are working together on these issues, and if we have parents that have students with grade point averages 4.0 or greater that are not getting into The University of Texas or A&M or any other, Texas Tech, any other institution. I assure you that you and I working together can make certain that that occurs, because if they're doing that, then there's not good faith, and that's why we need to sunset this and make certain that the top 10 percent comes back into being.

**Senator Nelson:** In two years, I would, I would really, genuinely ask you, Senator West, to consider this, we're not abolishing it. I'm just forcing us to sit down between now and the end of the next legislative session and reexamine this whole thing. Senator Shapiro's approach is the best she could do this session, but I'm asking you to work with me, work with all of us to just reexamine this and come back to the next Legislature with a new approach, a new solution that will address this need of all our children.

**Senator West:** And you know what, I understand your position, but I would rather meet with you over the interim, look at these issues, and then come back, and if there are real issues, address them at that point in time.

**Senator Nelson:** Yes, Senator, you said, and I quote you, when you laid out this amendment that we needed to keep the pressure on. And I think an amendment that sunsetted this in two years would do more to keep the pressure on.

**Senator West:** Sunset what, the whole top 10 percent?

**Senator Nelson:** Yes, Sir.

**Senator West:** Oh, then you'd put us back, well, let me ask you this. Let's play this out. Let's play this out. Senator Nelson, I mean, you've been a part of this process forever. If I were to accept your amendment, where would the leverage go? Would it be on our side, or on UT's side at that point in time?

**Senator Nelson:** You know, Senator, I truly believe that it, the pressure would come from all sides. I think it may force us to come up with some new solutions that we haven't even discussed. I could tell you, quite honestly, that I wish some of us who, and I understand the process, and we all have been busy, but I wish, I'm not on the Education Committee, so I didn't have an opportunity to express in detail, and I'd be happy to stay here for a while if we need to and discuss in detail. I'd probably call down and have my staff pull some letters up that I've gotten from some parents. In fact, if we waited around here long enough, I'd probably get some of them to fly down here, and talk about some of their really (inaudible) experiences.

**Senator West:** Well we have three weeks.

**Senator Nelson:** Do what?

**Senator West:** We have three weeks.

**Senator Nelson:** Yes, we do, but the amendment, that's a really good amendment to your amendment is— (inaudible)

**Senator West:** I thought you wanted to talk about it for a while.

**Senator Nelson:** I'd be happy to talk about it.

**Senator West:** We've got three weeks.

**Senator Nelson:** We can talk about it right now, it's right in front of us. Keep the pressure on with me, Senator. Keep the pressure on to reexamine the entire approach that we're taking toward the problems that we're facing, addressing your needs, but—

**Senator West:** How long are you going to talk—

**Senator Nelson:** Also addressing money.

**Senator West:** How long are you going to talk?

**Senator Nelson:** As long as you'd like to talk.

**Senator West:** Three weeks.

**Senator Nelson:** I'll tell you what, if you will accept this amendment, I'll stop talking.

**Senator West:** Oh, no. So if I don't accept it, you'll talk for the next three weeks on it?

**Senator Nelson:** Did I say that? Do you see pink tennis shoes up here?

**Senator West:** I'll give you three weeks.

**Senator Nelson:** Do you see pink tennis shoes? No, Sir, I just, and I know everybody has things to do, but I will tell you, this is a very, very important issue to my constituents.

**Senator West:** I understand.

**Senator Nelson:** We all talk about, you know, the phone calls we get and the, and, you know, this is one of those issues that I genuinely get lots of phone calls from very concerned parents. As I said earlier, if I could recall one of my votes, this would sure be it, because I didn't think down the road, at the negative impact it would have on my big mega schools, because their top 10 percent is not the same as a high school with 100 kids graduating. So—

**Senator West:** So you're offering the amendment to the amendment?

**Senator Nelson:** Yes, Sir.

**Senator West:** Mr. President, I move to table the amendment to the amendment.

**Senator Nelson:** Man.

**President:** Well you can't do that until we lay it out.

**Senator West:** Oh, OK.

**President:** The following Floor Amendment No. 2, by Senator Nelson. The Secretary will read the amendment.

**Secretary:** Floor Amendment No. 2 by Nelson.

**President:** The Chair recognizes Senator Nelson on Floor Amendment No. 2.

**Senator Nelson:** Thank you Mr. President.

**President:** Which is an amendment to Floor Amendment No. 1.

**Senator Nelson:** That's right and, basically, Members, what this does, if you will look on page 6, this Act takes effect on September 1, 2009. What this would do would sunset the top 10 percent rule and we would have two years to come up with, two-plus years, to come up with a new approach to the problems that we face.

**President:** The Chair recognizes Senator West on Floor Amendment No. 2, which amends your amendment on Floor Amendment No. 1.

**Senator West:** Mr. President, at this time, I would move to table the amendment to Amendment No. 1.

**President:** Senator Shapiro, do you wish to speak on the amendment or not?

**Senator Shapiro:** No.

**President:** No, all right.

**Senator Shapiro:** I'm leaving it up, I'm leaving it up to my colleagues to— (inaudible, not speaking into the microphone)

**Senator Janek:** Will Senator West yield for a question?

**President:** Will Senator West yield to Senator Janek?

**Senator West:** Yes, I will.

**Senator Janek:** Thank you. Senator West, I'm looking at your amendment, and on page 1, lines 18 and 19, there's some language in here in which you talk about automatic admissions and you say that, if the student's in the top 10 percent of their graduating class in one of the two school years preceding the academic year for which the applicant is applying for admission. Now, is the current law under the top 10 percent, one of the two preceding years?

**Senator West:** That is, that is my understanding. We draft, this draft came in conjunction with the Lieutenant Governor's office and Senator Shapiro's office. That's my understanding of the current law.

**Senator Janek:** So the understanding is that currently under the two preceding years, that the universities have, are forced to do a look-back in the two preceding years. I have to confess, that is new knowledge for me. I did not—

**Senator West:** And I take—

**Senator Janek:** Remember that from before.

**Senator West:** And I tell you—

**Senator Janek:** Perhaps, perhaps Senator Shapiro can help us out here, but I've never heard that discussion that universities have to take a student who, in one of the two preceding years—

**Senator West:** And this is what I, this is what I'll say to you. If, indeed, it's not the current law, that's what we, that's the intent of this particular amendment. This was drafted in conjunction with Senator Shapiro and also the Lieutenant Governor's office.

**Senator Janek:** For the, for the benefit of Senator Shapiro, I would say that the amendment, the amendment before us, Senator West's amendment, says that if a student graduated in the top 10 percent of their graduating class in one of the two preceding years, before they apply, I don't know that that's current law, if it is, it's news to me.

**Senator Shapiro:** It is, it is current law.

**Senator Janek:** It is current law, OK.

**Senator Shapiro:** Yes, Sir.

**Senator Janek:** That satisfies my first question.

**Senator Shapiro:** Yes, Sir.

**Senator Janek:** My second question is on page 2 of the amendment.

**Senator West:** OK.

**Senator Janek:** On Subsection (b), it says that after admitting an applicant under this section, the institution shall review the applicant's record and any other factor. Moving down to line 8, the institution, I beg your pardon, on line 5, the institution, any other factor the institution considers appropriate determines whether the applicant may require additional preparation for college level work or would benefit from inclusion in a retention program. So my question is this, are we saying to a university, you have to take a student who's in the top 10 percent of their graduating class even if they require additional preparation for college work?

**Senator Shapiro:** Yes.

**Senator West:** This is the current law today, OK, and what we tell the universities, because kids come from different circumstances.

**Senator Janek:** Sure.

**Senator West:** If they're in the top 10 percent, under current law—

**Senator Janek:** Sure.

**Senator West:** And the university thinks that they would, in fact, benefit from some, you know, a summer course or something, that they're able to do that. So, I mean, that's the current law.

**Senator Janek:** And that's my question. What you want to do here is to continue current law, and the issue before, in front of us, is, are we going to continue to allow students to automatically be admitted, even if, by our own admission and statute, they may not be ready for college. Now, I've got to tell you, I bet this is darn few and far between. I bet you there're not many circumstances, but I question the wisdom of putting that in statute where we say you have to accept the student and if they need a little remedial work to get ready for college, even though we all know they are ready for college because they're top 10 percent, you must provide them remedial work. You have to. You don't give them choice, because you have, by law, you have to accept the student, and if they need—

**Senator West:** Are you for this amendment?



**Senator Janek:** Remedial work—

**Senator West:** Did you vote for this amendment or against this amendment?

**Senator Janek:** I absolutely voted for the motion, excuse me, no on the motion to table. I vote against—

**Senator West:** Let me—

**Senator Janek:** This amendment. I think that what we're doing here continues—

**Senator West:** Are you against the amendment also?

**Senator Janek:** To be a mistake.

**Senator West:** OK, and I can understand that, because when you begin to look at the numbers in your district, even though you have an overrepresentation, when you begin to look at the percentage of students that attend UT, as an example, you have a lot of great students coming from your district, and I recognize that. In some instances, your numbers may very well be going down where other district numbers are going up, and I understand that. I really do. And all of us are kind of in a Catch-22 as it relates to these types of issues. I agree with you. It will always be an issue as to why my son or daughter didn't get into UT, or get into A&M, or get into University of North Texas at Dallas. I know that it's going to be an issue concerning that. And, so we have to keep the onus on the back of the universities, that's why I wanted to put the sunset in and make certain that the current law comes back. And you are right. When you begin to look at retention and top 10 percent of students being a part of retention programs, kind of nonexistent. But if, indeed, the universities need this particular tool, we should make sure that tool is available just in case, just in case there's an emergency in the operating room.

**Senator Janek:** I could probably come up with an scenario where an emergency in the operating room may have something to do with this, but I've just got to tell you, that if, the time to make changes to what's taking place is now, and your amendment before us, and I was, I'm nervous because you seem to have the votes on the motion to table, I'm hoping the Members just need a little more information. We will continue what you say is the current policy of allowing students who need remedial work to succeed in college, just a start in college—

**Senator West:** But it's not— (inaudible)

**Senator Janek:** We will force the universities to take students who may not be ready for college.

**Senator West:** Senator Janek.

**Senator Shapiro:** Mr. President.

**Senator Janek:** A black letter of the legislation—

**Senator Shapiro:** Mr. President.

**Senator West:** Senator Janek.

**Senator Janek:** Says— (inaudible)

**Senator West:** Senator Janek, but again, but—

**President:** Just a moment. Senator Shapiro, for what purpose do you rise?

**Senator Shapiro:** I'd like to ask the author of the amendment a question, or I'd like to, actually, I guess Senator Janek has the floor, I'd like to ask Senator Janek a question.

**Senator Janek:** I yield the floor, Mr. President.

**Senator Shapiro:** I'd like to ask, OK.

**President:** You're recognized to ask a question to Senator Janek.

**Senator Shapiro:** OK, Senator Janek or Senator West, which would you prefer?

**President:** You just got through asking to be able to ask—

**Senator Shapiro:** Right, but he just said he'd yield the floor, so now it's Senator West.

**Senator West:** So I have the floor back? So I have the floor back? So I yield to Senator—

**President:** Yes.

**Senator West:** Shapiro.

**Senator Shapiro:** OK. And I just want to make something very clear. First of all, Senator Janek is absolutely correct that this is current law and there is a fallacy in current law, and you're, you're absolutely right, and this is one of the reasons why I said over and over again, to only qualify a student on one criterion is wrong. And that's what we do with the top 10 percent, we only look at one criterion. The possibility that a top 10 percent student at a school, any school in the state, and we're not picking any school, could potentially have to take remedial courses in college is absolutely absurd. But because all we're looking at is their grade point average at their particular school, that is a possibility. And you're absolutely right that that does happen. Now, do we need change public policy, probably we should absolute, we should definitely be looking at it. Is this the place to change it? I don't think so. I think we probably ought to find another place, but your point is very well-taken.

**Senator West:** And let me respond to that though, when you begin to look at the numbers over the course of the history of the top 10 percent, even though it's in law, doesn't happen. I mean, if we look at the numbers over The University of Texas, I mean, the, and as I recall the numbers when we were looking at this issue during the interim, you may have maybe one or two students that, some very nominal number of students—

**Senator Shapiro:** I've never seen the numbers.

**Senator West:** (inaudible, overlapping conversation)

**Senator Shapiro:** I've never seen the number. I wouldn't have, I have never seen the number, I wouldn't even know how to respond to that.

**Senator West:** And that's good because I looked at that issue during the interim, one of the interims, and it's, it's nonexistent, the reality, at least at UT, at least UT.

**Senator Shapiro:** Then you would be, then you would be OK taking that out.

**Senator West:** Well, I'd be OK in leaving it in.

**Senator Shapiro:** Oh.

**Senator West:** At the current law in as we talked about it. You'd be OK with that, wouldn't you, leaving that, leaving—

**Senator Shapiro:** Well based on, based on what we've agreed to, yes, but based on what Senator Janek said, he is correct in— (inaudible, overlapping conversation)

**Senator West:** Well, I mean, you know, and if it's the will of the Senate at some point in—

**Senator Shapiro:** Right, exactly.

**Senator West:** The future to look at it—

**Senator Shapiro:** Exactly.

**Senator West:** Then fine.

**Senator Shapiro:** Yes.

**Senator West:** 2015 is a good year. I move adoption of the amendment if there are no further questions.

**President:** Senator Averitt, for what purpose do you rise, Sir?

**Senator Averitt:** Ask the author a question.

**President:** Will Senator West yield to Senator Averitt?

**Senator West:** I shall.

**Senator Averitt:** Senator West, I'll make this brief. It sounds like, I mean, someone who is just coming in and listening to the debate here today may think that the students who are being admitted under the top 10 percent can't read and write. But the fact of the matter is, from the statistics that I've seen, provided by The University of Texas itself, the students who are admitted into The University of Texas under the top 10 percent rule do better across the board virtually without exception than the students who are admitted under the other criteria.

**Senator West:** That is correct.

**Senator Averitt:** Have you seen those statistics?

**Senator West:** I have.

**Senator Averitt:** And, so an argument that sounds like we're letting in students who possibly are not worthy of a top-ranked school, would you agree with me that that argument is not valid?

**Senator West:** You know, I don't see it being valid, and I think it withstands logic and, Senator Averitt, it's amazing that many people who now support this holistic approach have a record of not supporting any type of affirmative action programs. And you have many of the advocates of affirmative action programs saying that we should have a race-neutral solution to this particular issue and it should be based on merit and not based on the color of one's skin, I mean, and that's kind of the debate— (inaudible)

**Senator Averitt:** Well, and, of course, I think we could all agree with you on that. My concern throughout this whole process and my support for the top 10 percent rule stems from the fact that the students who are admitted under the top 10 percent rule do better than the students that we are admitting under the other holistic process. And I have never understood why we really want to stop admitting a superior performing student, but, essentially, that's the direction that we're going, and I understand that there needs to be some limit on it, that's why I'm supporting the compromise agreement. But I do think it's important for folks to know that the students that are admitted under the top 10 percent rule are better students than the students admitted otherwise, and they deserve to go to that university, and we should not confuse this argument that we're allowing someone who doesn't deserve this top-ranked education because they do. Thank you Senator West.

**Senator West:** And I think it's real important we have students here that are up in the gallery right now, and I'm glad that they're here listening to this debate so they can pretty much also understand what the top 10 percent is all about and continue to strive for excellence also.

**President:** Senator Janek, had you finished with your questions of Senator West? You had. Chair recognizes Senator Seliger on Floor Amendment No. 3.

**Senator Seliger:** Thank you Mr. President. I thought it was interesting just a few moments ago when Senator Nelson said that back in 1997 this is one of the few votes that she ever made that she regretted. But in 1997, sitting back in the Panhandle and watching what was going on and watching what was meant to be accomplished by top 10 percent, I think an awful lot of us in Texas thought it was a very good vote and a very timely vote, because it meant to address what was either the systematic inclusion or the systematic exclusion of some people in the State of Texas that we very, very much wanted to have advantages of higher education and all the things that it means to future life. And now we have a bill, what we found in 1997 is, to a very great extent, top 10 percent doesn't work the way it was intended to do. And, so what our bill does now, currently on the floor, is it takes a measure that doesn't work, it seeks to tweak it a little bit so it doesn't work a little bit less, and that's why we have this particular amendment, and this is the don't mend it, end it amendment. This essentially seeks to do away with the top 10 percent admission statute from the Education Code, quite frankly, because it really hasn't worked to do what it meant to do. Earlier on, Senator West, Senator, we simply believe that the institutions, to paraphrase, of their goodwill to do it, and, yes, to an extent, I think that is a worthwhile way to do it, and I think that we have seen some of the ways that Texas A&M did it. I think a thing to do was to put together a study group, no one would be more effective on it than Senator West, to see to it that institutions have programs who admit the people who have so much to bring to the State of Texas that might not have had those advantages, but we can do it through policy, and we can do it through intense study, and we could do it in such a way so we don't have the Legislature of the State of Texas running the admissions department of our universities. Something else that Senator West said that I think all of us can agree with, that we want to say to the children in Texas, that if you do the best that you can do, if you aim high and your effort matches your aspirations, you should have the advantages and you should be

able to get a fine college education. And I would submit to you that we can, in the State of Texas, for the kids who aim high and work hard, and we have all these opportunities at all these great institutions, be they Tarleton and Sul Ross, University of Texas-Permian Basin, Texas Tech, and West Texas A&M, but what we have done with this measure is not provide opportunities for all of these kids, and all of these fine institutions, including University of North Texas, Texas A&M, Pan American, and things like that. We have simply clogged the admission process at The University of Texas and Texas A&M. I don't think that was the intended purpose in 1997, I don't think it's what we should do now, and I urge adoption of the amendment.

**President:** Senator West, for what purpose do you rise?

**Senator West:** Question of the author.

**President:** Will Senator Seliger yield to Senator West?

**Senator West:** So you want to end the top 10 percent, that's what this amendment does?

**Senator Seliger:** Yes, Sir, it is.

**Senator West:** All right, thank you.

**President:** The Chair recognizes Senator Shapiro on Floor Amendment No. 3.

**Senator Shapiro:** This is not acceptable to the author.

**President:** Members, Senator Seliger moves the adoption of Floor Amendment No. 3. It's not acceptable to the author. The Secretary will call the roll. Chair recognizes Senator Patrick to explain Floor Amendment No. 4.

**Senator Patrick:** Thank you Mr. President. Thank you Members. This should be an amendment that everyone on this floor can support because we have heard testimony, not testimony, but we have heard in the debate to this point that we have students who are bright and able and willing and desirous of going to The University of Texas, because they're the school that's up against the cap at this point, where other schools that will be in the future, who want to go to those schools and cannot get in. We've also, that Texas now is taking approximately 8 percent of their students in their freshman class from out of state. So this amendment clearly says that we're putting Texas kids first. I see the kids that we've had up in the, and the young adults up in the gallery coming in and out, and if my choice is coming down to choosing a student from California or Texas, I want Texas. If it's a student applying from Texas or Michigan, I want Texas. If it's a student from North Carolina or Virginia or any other of the other 49 states, I put the kids from Texas first. It doesn't mean we don't want diversity in our schools, but I want diversity to come from Texas. So this amendment says, and, Members, this says to your constituents that you're putting your constituents' kids first so schools that opt in to this cap must limit the out of state students that they take to 4 percent. That would cut in the freshman class. That would cut the current amount coming in in half. That would open more slots for Texas kids. So I urge Members to support the young students and the parents in your district and put Texas kids first. Thank you Mr. President.

**President:** Senator Hinojosa, for what purpose do you rise, Sir?

**Senator Hinojosa:** To ask Senator Patrick a question.

**Senator Patrick:** Yes.

**President:** Will Senator Patrick yield?

**Senator Patrick:** Of course.

**Senator Hinojosa:** Thank you Mr. President. Senator Patrick, do you know that The University of Texas is known as a national school, do you not?

**Senator Patrick:** Yes.

**Senator Hinojosa:** It has a reputation nationwide and a lot of students from out of state do apply.

**Senator Patrick:** Yes.

**Senator Hinojosa:** And you also agree that when you have a good mixture of in state and out of state schools, it really enhances learning from the students, coming from different universities nationwide, would you agree to that?

**Senator Patrick:** Yes.

**Senator Hinojosa:** And most of the time, I guess, outside, students from outside the state pay a higher tuition than in state students.

**Senator Patrick:** It depends, each state is different.

**Senator Hinojosa:** Well, you know, and right now, the, you know, so Texas can admit however many students it wants from outside the state, does it not?

**Senator Patrick:** I believe there's actually a cap, but they can obviously admit a significant number of students, yes.

**Senator Hinojosa:** Yeah, is there a cap right now?

**Senator Patrick:** I'd have to go back and check the code, I think it, it may be 20 percent, but I'd have to double check that. They've acknowledged they're admitting 8 percent, that's what we've talked about in various meetings on and off the floor.

**Senator Hinojosa:** We know, I attended law school at Georgetown University, Washington, D.C.—

**Senator Patrick:** Yes.

**Senator Hinojosa:** And they don't have a cap on the amount of outside students that can apply. What's going to happen with your amendment, you're going to have other universities retaliate against Texas students, that we cannot attend their universities because we have a cap on the amount of people who can attend from these states.

**Senator Patrick:** Senator, with all due respect, I don't think some Senators on this floor, I am one who voted to abolish the 10 percent. I don't think we should have the 10 percent. I think we should have students come to our schools based on merit. But let me say this, Senator, for those of you who I respect, who have a different opinion, I cannot reconcile people who say we must keep the 10 percent and now we're going to tell the parents of children in your district, or my district, that, by the way, we'd like

for your son who did really well, or your daughter, to get to UT, but because we really, we want to have diversity across the United States, we're taking a kid from Utah. I'm sorry, Texas kids first, Senator.

**Senator Hinojosa:** Well, I think your amendment's very protection, protectionist in nature, it's a very parochial approach to higher education.

**Senator Patrick:** I think it's taking care of, our job is to take care of our constituents first. That's our job.

**Senator Hinojosa:** Well, you know—

**Senator Patrick:** I'm not, I'm not, you know, I don't have—

**Senator Hinojosa:** I think, I think our universities will benefit from having students from out of state. We do have most of the majority of students who attend UT are from Texas. And I don't think we should be—

**Senator Patrick:** All I'm saying, Senator—

**Senator Hinojosa:** Limiting the number of students that can take from out of state. I think they know very well, and their discretion and have the good judgment to take some students from out of state that have the GPAs 4, 3.9, 3.8 and certain students they need to diversify the student body.

**Senator Patrick:** Senator, we wouldn't need my amendment if we would abolish the 10 percent rule.

**Senator Hinojosa:** Well, I think you have—

**Senator Patrick:** You can't have it both ways.

**Senator Hinojosa:** I think you have a real bad amendment.

**Senator Patrick:** No, I think this is a good amendment for Texas kids. It allows UT or any schools in the future who opt in to take still 4 percent of the freshman class, which is significant, this, this is the freshman class. We're not talking about grad school. Look, we have 24,000 students every year in Texas who graduate in the top 10 percent, 24,000. Nine thousand Texas kids are leaving Texas, it is a brain drain of Texas. We're losing the best and the brightest of Texas. I want Texas kids to get an education in Texas and become an important part of society in Texas and become the leaders of the future. So if this opens up more slots for Texas kids, I can't imagine any Senator voting against it.

**Senator Hinojosa:** Senator, we already have a lot of students that go to Harvard, to Yale, to UCLA, Princeton, because they do that by choice. They learn. They're not leaving here just because they don't have any spots here in Texas.

**Senator Patrick:** Senator, many are leaving because they cannot get into the universities of their choice here.

**Senator Hinojosa:** That is not true. And I will tell you—

**Senator Patrick:** How do you know that?

**Senator Hinojosa:** Let me tell you. I served on the admissions committee at Georgetown for several years—

**Senator Patrick:** Right.

**Senator Hinojosa:** And many students will apply to three or four universities nationwide. And then they can get admitted to two or three universities at the same time, they, then they decide where they want to go.

**Senator Patrick:** So you think, do you think these Texas kids should have a choice of where they go to school?

**Senator Hinojosa:** Well they are. They do have a choice.

**Senator Patrick:** School choice is good.

**Senator Hinojosa:** You know, we're talking about college, yes.

**Senator Patrick:** Well I think in high school it applies as well.

**Senator Hinojosa:** Yeah, I, you know what, you, you really are confused about public education in the school system of higher education. There's a big—

**Senator Patrick:** No, I just—

**Senator Hinojosa:** There's a big difference in the way it is.

**Senator Patrick:** I just—

**Senator Hinojosa:** It is not mandatory that you attend college. It is mandatory that you attend public school.

**Senator Patrick:** I don't want to get off the track, but if school choice is good for a student who's 19, out of college, it should be good for a student who's 17, in high school, trying to get to a better college, but—

**Senator Hinojosa:** I think you got it—

**Senator Patrick:** That's another issue.

**Senator Hinojosa:** You know what, I think you got a, yes—

**Senator Patrick:** Another issue.

**Senator Hinojosa:** You are getting your concepts confused.

**Senator Patrick:** No, this is a good amendment for Texas kids.

**Senator Hinojosa:** I don't think so. Thank you.

**Senator Patrick:** Mr. President, I urge that—

**President:** Senator Ellis, for what purpose do you rise, Sir?

**Senator Ellis:** Ask a few questions—

**President:** Will Senator Patrick yield to Senator Ellis?

**Senator Patrick:** Sure.

**Senator Ellis:** Senator, do you know whether or not when they compile rankings for schools, *U.S. News & World Report*, or the rank, whatever rankings you choose to look at, whether they take into account the percentage of students that are not from that state?

**Senator Patrick:** I believe it's probably part of the mix of Tier One schools.



**Senator Ellis:** So you assume that it's part of the mix as a positive thing. So if you have a certain, a higher percentage of students from out of state, they probably count that more in the up category than being in the negative for you.

**Senator Patrick:** Senator, all of those, that may be an issue, what Senator Hinojosa brought up, are, are valid issues. We want a diverse student body in our, in our universities, particularly our leading universities, all of our universities, but these universities are against the caps, Senator.

**Senator Ellis:** I gotcha.

**Senator Patrick:** Or, or having, let me finish, or having to say no to Texas kids.

**Senator Ellis:** I gotcha.

**Senator Patrick:** And, so while all of these other issues are important, the most important issue for this, Senator, are the kids in my district. Period. And they should be the same for you.

**Senator Ellis:** Let me ask you a few more questions. Did you come to Texas to go to school, or did you come here to take a job?

**Senator Patrick:** I came to take a job.

**Senator Ellis:** Well when you came—

**Senator Patrick:** Best thing I ever did.

**Senator Ellis:** But when you came, you saw it was a great state and decided to stay.

**Senator Patrick:** Absolutely.

**Senator Ellis:** And we, do you know what the percentage of these students from out of state, who choose to go to colleges in Texas, stay in Texas?

**Senator Patrick:** I don't know. We just heard in Education that about 8 percent of the students enrolled in a freshman class are from out of state. This is really a simple issue, Senator. Again, Senator Hinojosa's points are valid, your points are valid, but that is, you're missing the issue. The issue are those kids in the gallery from Texas. And I don't think you want to be the Senator who says to one of those kids, from any district, or your district, you know, we had one slot left, but we gave it to Wyoming. There's a kid in Wyoming who really wants to come to Texas. I don't think that's what you want to stand for.

**Senator Ellis:** Can I ask you another question? Just a few more. You mentioned earlier that some percentage of students who cannot get into UT-Austin, choose to go out of state.

**Senator Patrick:** Correct.

**Senator Ellis:** OK. If you just had to guess what state—

**Senator Patrick:** I'm not going to—

**Senator Ellis:** Do you think (inaudible)?

**Senator Patrick:** I'm not going to guess. I don't know.

**Senator Ellis:** Do you assume a good number of them are going to, maybe LSU, or going to North Carolina—

**Senator Patrick:** I'm sure—

**Senator Ellis:** Neighboring states.

**Senator Patrick:** Since we have, had testimony that 9,000 out of 24,000 are leaving the state, I would think they're going to a variety of universities across the United States depending on their economic circumstances, the requirements of those universities, etcetera.

**Senator Ellis:** Do you know if any of those states that those students are going to have a comparable restriction on out of state enrollees that would be this low?

**Senator Patrick:** Senator, I don't know and I don't care. I care about Texas kids first.

**Senator Ellis:** You got it. Now we're on the same wavelength because—

**Senator Patrick:** I care about Texas kids first.

**Senator Ellis:** That's, I'll close with this. On all three questions I asked you—

**Senator Patrick:** Yes.

**Senator Ellis:** And I'll be honest with you, I don't know, but I do care. But you laid it out right. You don't know, you don't care.

**Senator Patrick:** No, you missed the point.

**Senator Ellis:** And we're talking about—

**Senator Patrick:** I don't care about what—

**Senator Ellis:** Whether or not—

**Senator Patrick:** Michigan is doing, Senator.

**Senator Ellis:** Just let me—

**Senator Patrick:** I don't care about what the rules are in California.

**Senator Ellis:** We're both college graduates, let me just make my point and I'll sit down. When we are talking about what impacts the rankings—

**Senator Patrick:** Yes.

**Senator Ellis:** Of the Tier One universities in this state, of which we don't have enough of, we ought to know what it does and we ought to care.

**Senator Patrick:** We care—

**Senator Ellis:** When we are talking about students in Texas who don't get to go to Tier One schools in Texas and opt to go to what they consider Tier One schools out of Texas, whether or not that state has a comparable restriction on our kids, and what impact us putting a restriction on their kids will have, we ought to know and we ought to care.

**Senator Patrick:** And I care about that.

**Senator Ellis:** So I just suggest to you on a neatly crafted compromise in which—

**Senator Patrick:** Which I worked on.

**Senator Ellis:** Both sides have given a lot. We ought to be very careful about how we tinker with this compromise. We ought to know what we do in that compromise and, Senator, we ought to care. And if—

**Senator Patrick:** Well, Senator—

**Senator Ellis:** You don't, I do, but I thank you for your time and I hope you, the amendment goes—

**Senator Patrick:** Yeah, Senator—

**Senator Ellis:** Out of state, as well.

**Senator Patrick:** Senator, I do care, but I care about the kids in Texas first. That's my point. And I've worked on this with Senator Shapiro in Education. There's an amendment that's rolled in that allows the universities to send students to the entire system, which is a good amendment that gives the schools more opportunity and opens up more slots. What we should be about on the floor of the Senate, is to make sure we create as many slots as we can for Texas kids who want to stay in Texas. Let's face it, it's already bad enough our parents are getting charged a significant amount of money to go to our state schools because of deregulation. That's bad enough. But if we have a parent who says, I want to pay, or a student who wants to take out the loan because they want to go to Texas, let them go to Texas, and sorry to that student from Indiana, you're just going to have to go somewhere else. Thank you, Senator. Mr. President, I move adoption of this amendment.

**President:** Senator Averitt, for what purpose do you rise, Sir?

**Senator Averitt:** Ask the author of the amendment for—

**President:** Will Senator Patrick yield to Senator Averitt?

**Senator Patrick:** Sure.

**Senator Averitt:** Senator Patrick, your amendment is essentially cutting the out of staters in half—

**Senator Patrick:** Yes.

**Senator Averitt:** From 8 percent to 4 percent.

**Senator Patrick:** Right.

**Senator Averitt:** Is that an arbitrary number or is—

**Senator Patrick:** It's not an arbitrary number, it's a number, I mean, I could've said, cut all out of staters, but I think that would be to the extreme, and Senator Hinojosa's point, we need diversity. I could've picked, I thought, let's cut the number in half to open up more slots to give UT or schools that opt in the opportunity to take a certain amount of students.

**Senator Averitt:** Do you know how much 4 percent, how many students 4 percent would be?

**Senator Patrick:** Well, based on memory, if there are roughly 8,000 students in the freshman class at Texas, 8 percent would be 640, is that correct, 4 percent would be 320, again, cowboy math, I'm going it on the fly, but 200 or 300 slots. But I'll tell you what, it's real important to those 200 kids that wouldn't get in.

**Senator Averitt:** Well, I was just, you know, I'm sure there's a lot of concern, is 320 enough to cover the athletic program at UT? Can enough out of state athletes come in under your proposal?

**Senator Shapiro:** Oh, boo.

**Senator Averitt:** To take care of the—

**Senator Patrick:** You know, you know, Senator—

**Senator Averitt:** I figured it. I mean, there's got to be a reason that we, you know, we picked 4 percent.

**Senator Patrick:** I picked, I picked—

**Senator Averitt:** I'm sure that we would all be concerned.

**Senator Patrick:** I picked 4 percent. I think UT's doing just fine, by the way, on the field, but I picked 4 percent because I thought it was a fair number if they're taking in 8, to cut in half, and bring in a few more hundred with this bill, will bring in a few more hundred. So if we can create through this bill, potentially, close to 1,000 slots for Texas kids who couldn't get in, it's a great deal, or, it's a better deal than they have today. It's not a great deal. The great deal is getting rid of 10 percent. And I know you and I disagree on that, but that's fair. We, we choose to disagree.

**Senator Averitt:** Thank you Senator.

**Senator Patrick:** Thank you. I'll try one more time, Mr. President, for adoption of this amendment.

**President:** Members, Senator Patrick moves adoption of Floor Amendment No. 4. The Chair recognizes Senator Shapiro on Floor Amendment No. 4.

**Senator Shapiro:** This amendment is not acceptable to the author.

**President:** Members, Senator Patrick moves adoption of Floor Amendment No. 4. It's not acceptable to Senator Shapiro, the author. The Secretary will call the roll.

**Secretary:** Averitt, Brimer, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa—

**Senator Patrick:** Mr. President, I'd like a strict adherence on the vote, by the way.

**President:** I think you mean a strict—

**Senator Patrick:** Verification.

**Secretary:** Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

**President:** Members, the vote's showing 10 Ayes and 18 Nays, but there are only 26 Members on the floor. (inaudible, not speaking into the microphone) Fine, we'll cut it by 4 percent. No. No. Senator Patrick has called for strict adherence. Senator Lucio and Senator Whitmire not here. They're not on the floor. Strict enforcement. But the amendment fails, regardless.

**Senator Patrick:** I withdraw the strict enforcement.

**President:** There being on the floor, 11 Ayes and 16 Nays, the motion fails. (Gavel) The following floor amendment, Floor Amendment No. 5 by Senator Shapleigh, the Secretary will read the amendment.

**Secretary:** Floor Amendment No. 5 by Ogden.

**President:** I'm sorry, I'm sorry, by Senator Ogden. All right, it's time to suit up. Chair recognizes Senator Ogden on Floor Amendment No. 5.

**Senator Ogden:** Mr. President. Members, I want to change the focus of the debate with this amendment. I've been thinking about this a long time because I have, along with Senator West, been a strong supporter of the top 10 percent rule. And one of the reasons I supported it was, is it tells every high school in the State of Texas that excelling in school, being the best in your school does make a difference. And that the State of Texas will recognize your effort and hard work with automatic admission to any school in the State of Texas. I think, over the last 10 years, Senator Nelson, it has been a motivator for every school district in the State of Texas. And one of the reasons that it was such a good motivator in my district was, is that I represent about 80 school districts, most of them 1A, 2A districts, and you could tell your valedictorian, your salutatorian that we guarantee you that if you work hard in our school, you can go to The University of Texas, or Texas A&M, or any school in this state. And I think that was an important public policy statement. Now we're changing that policy with respect to rules and regulations. And I would like to ask you to consider this amendment as an economic incentive, if you will, to reward top 10 percenters, to encourage top 10 percenters in our state, and it will work. So I move adoption of Floor Amendment No. 5.

**President:** The Chair recognizes Senator Shapiro on Floor Amendment No. 5.

**Senator Shapiro:** Thank you, Mr. President and Members, I'd really, Senator Ogden, would like to clarify just a few things about your amendment for just a few minutes, if you would.

**Senator Ogden:** OK.

**Senator Shapiro:** Thank you Mr. President. Members, I'd really, Senator Ogden, like to clarify just a few things about your amendment for just a few minutes, if you would.

**Senator Ogden:** OK.

**Senator Shapiro:** OK. First of all, with your amendment the state would pay for the tuition exemption by making up for the loss, you're talking about the Hinson-Hazelwood with the statutory tuition is waived. Is that correct?

**Senator Ogden:** It is similar to Hinson-Hazelwood with a statutory tuition for students who graduate in the top 10 percent as long as they meet the B-On-time requirements of the other scholarship program. You've got to maintain a 2.5 and take a full load.

**Senator Shapiro:** OK. But my concern is with the financing of this, so let's just work with me here for just a second. So the loss of GR dedicated in the state formulas, but there'll be a loss of GR dedicated, but there'll be an increase in GR. Is that correct?

**Senator Ogden:** Well the way the formula works is that if you reduce the amount of GR dedicated that's being paid to the schools, it's made up with general revenue that we appropriate through the formula.

**Senator Shapiro:** Which is the question I asked and the answer is, yes. And then isn't it possible that with the loss of GR dedicated it could potentially not fully offset the GR by the increases in GR since the dollar per semester credit hour would change? Is it your intent that the Legislature appropriate the necessary amount of GR to fully compensate the universities for the loss of GR dedicated?

**Senator Ogden:** Yes.

**Senator Shapiro:** OK.

**Senator Ogden:** In fact, we already did it. When you wrote the appropriations bill for the Senate you added \$110 million to the formula. Remember that?

**Senator Shapiro:** Oh, I remember what I did. I just want to make sure—

**Senator Ogden:** And what you did by doing that is you fully compensated, you more than fully compensated the universities for any reduction in GR dedicated. Because the amount of tuition, reduced tuition that's being provided by this amendment is around \$25 million a year. So you're talking, what we're talking about is \$25 million.

**Senator Shapiro:** But it's \$25 million, but the \$100 million doesn't all go to The University of Texas at Austin. They get a proportional share of that. They don't get \$25 million.

**Senator Ogden:** Yeah, but their proportion will go up in proportion to the number of top 10 percenters who are not paying tuition.

**Senator Shapiro:** I understand, but here's what, I just want to make sure, but if we fall short, then there is the opportunity or the understanding that the legislative process of appropriations would not leave any of these institutions short of their GR funding.

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

**Senator Shapiro:** OK.

**Senator Ogden:** I mean, I'm not going to vote to cut formula funding. Neither will you.

**Senator Shapiro:** OK. I just need to get the record on this. And the second questions is—

**Senator Ogden:** But while we're talking about that, what we're talking about is the cost of going to our universities. And, you know, it's been a matter of some controversy around here about how much it costs. And what I'm saying is, is that the State of Texas through its formula funding needs to recognize excellence and needs to encourage excellence, and this is the way to do it.

**Senator Shapiro:** And I'm not disagreeing. I just want to clarify what your amendment does, so bear with me for a minute. In the section of the Education Code, which is the designated tuition part, I guess it's Section 54.0153, there's a provision in there, and this is what it says, these funds, meaning designated tuition or deregulated tuition, shall not be accounted for in the General Appropriations Act in such a way as to reduce the general revenue appropriation to a particular institution. Is it your intent to use your amendment as a lever to require universities to hold their designated tuition at a certain level?

**Senator Ogden:** No.

**Senator Shapiro:** Is your intent to regulate—

**Senator Ogden:** That's another—

**Senator Shapiro:** That's all. That's all. I just want to hear it. Is it your intent to regulate tuition in any way under this amendment?

**Senator Ogden:** To answer the question, no.

**Senator Shapiro:** Thank you. Isn't there, I got one more, isn't there generally a lag for universities between the exemption period which, of course, loss of funding and the state funding that they would receive?

**Senator Ogden:** Yes. In this bill there would be a one-year lag. And I think my intention is in the conference committee to recognize that when we appropriate the formula funding.

**Senator Shapiro:** Thank you.

**Senator Ogden:** It'll only be a, it will be a one-year lag and the number is about thirty, about twenty-five million.

**Senator Shapiro:** Thank you. And you intend to work on that in the conference committee?

**Senator Ogden:** Yes.

**Senator Shapiro:** And the last one, and this is probably the easiest, does your amendment repeal the top 10 percent law and replace it with the scholarship program?

**Senator Ogden:** No.

**Senator Shapiro:** Thank you. Mr. President, I'd like to request that the exchange between Senator Ogden and myself be reduced to writing and recorded in the *Senate Journal*.

**President:** Well thank you Senator—

**Senator Ogden:** And I—

**President:** Shapiro.

**Senator Ogden:** Would ask that when you do that, please note that I answered the questions. Mr. President, let me, now that we've got the attention of the Senate, this amendment is very similar to what we do for our military personnel in Hinson-Hazelwood. It will exempt top 10 percent students from statutory tuition at any institution in our state. The effort here is to encourage all 35 upper graduate institutions to recruit top 10 percenters. Contrary to much of the debate these are our best and brightest students. I want you to know that over, the more top 10 percent students do not attend college in Texas than go to The University of Texas. I think the problem is not that we have too many top 10 percenters staying in Texas, I think the problem is we got too many leaving. This is an effort to encourage them to stay. It's, and it will not break the bank. I move adoption of Floor Amendment No. 5.

**President:** Senator Patrick, for what purpose do you rise?

**Senator Patrick:** A question of the author, please.

**President:** Will Senator Ogden yield?

**Senator Ogden:** I yield.

**Senator Patrick:** Thank you Senator. Thank you Mr. President. I surely support this in concept, Senator Ogden, it's one of the reasons I had my Texas Teach Corps that also provides scholarships for students that, that, I think it's important for us to defray as much of the costs of college education as we can. I was under the impression that if we did this, funding these top 10 percent, that we were going to eliminate the top 10 percent as a part of this but I want to be sure I'm, I have heard you correctly saying that, Senator Shapiro, that is not the case, so we're going to be funding all the top 10 for the reasons you stated, but we're keeping the top 10?

**Senator Ogden:** This amendment is separate from the previous debate, and it, it stands alone and as the bill currently is on the floor, the top 10 percent change remains in place, and there's no change to that change.

**Senator Patrick:** So I want to be sure I understand—

**Senator Ogden:** It does not eliminate top 10 percent.

**Senator Patrick:** It does not eliminate 10 per, it does not eliminate—

**Senator Ogden:** Does not.

**Senator Patrick:** The top 10, it keeps in place what we have passed out of Committee on Education.

**Senator Ogden:** On the, on this floor so far?

**Senator Patrick:** Yes. But my only concern, because I think this is, again, a great incentive to keep our 10 percenters in state, because like you, I worry about the brain drain of us losing students to out of state. My concern now though, could this exacerbate the problem of these students that Senator Nelson talked about, that Senator Williams has in his district, that I have in my district, and other Senators where we have these big 5A schools? And we already have many parents upset that they can't even get into these schools because of top 10, and their children, well, the students are already upset themselves, they have a 4.0, they're some of the best of the best. And, now, not only are they not only getting in but because they missed the cut,



because of the top 10 percent rule, they're seeing their classmates, or they're seeing students at other schools who've made not close in SAT score, not close in GPA, they're going to say, gee, now we're, we're getting a double whack. We don't get in and those kids are even getting their school paid for, and we're having to go to a private school and pay even more. I mean, are you concerned?

**Senator Ogden:** So, so, I mean, what's the point, tell the top 10 percenters they've got to pay, too?

**Senator Patrick:** No.

**Senator Ogden:** I mean, what's the point?

**Senator Patrick:** No. The point is, I think your amendment's a good amendment, I'm going to fully support it. My, my concern is, that where we really, I think where the top 10 is an issue in the state, it's for our, it's for our large schools and all of those students who are doing everything that they can possibly do, because you can't do much more than a 4.0, and are still not getting in. And they're going to see a student who may not have the overall holistic approach at another school, not only get in in front of them, but get their college paid for, and then these students are going to be left to go out of state or go to a private school that costs even more money. That's my only concern, and that's why I think this amendment is a great amendment, I just think this top 10 percent rule is just a bad idea.

**Senator Ogden:** OK. And I think, you know, we're sort of bringing up two separate issues. The intent of this amendment is not only to recognize excellence in all of our high schools and tell the top 10 percenters that it's going to, that you're going to receive a modest scholarship from the State of Texas if you want to stay and go to school here. But also, the intent is to give all 35 of our institutions an incentive to recruit these kids and in conjunction with other scholarship programs, improve their student bodies. What I think will happen is, is that some of the pressure on The University of Texas will be relieved because other schools, Texas Tech for example, can take this amendment—

**Senator Patrick:** As an incentive to take?

**Senator Ogden:** Take this—

**Senator Patrick:** Right.

**Senator Ogden:** And using their local scholarship funds, actually go out and recruit these kids and basically say, if you're in the top 10 percent, you can come to our school on a full scholarship. That's the intent to create, to recognize excellence in Texas, and then to create incentives for our schools to recruit our best and brightest.

**Senator Patrick:** Well, I think, I think that's solid logic, I hope you are correct, and I hope this opens up more slots for all of the students, particularly those who do very well and just slide outside the 10 percent because they're in a high performing school in a large—

**Senator Ogden:** And they—

**Senator Patrick:** District. So I totally—

**Senator Ogden:** We'll work on a scholarship for them, too.

**Senator Patrick:** Sure. I totally support this amendment, I think it's a great step forward for our students. Thank you Senator.

**Senator Ogden:** I move adoption of Floor Amendment No. 5.

**President:** Senator Ellis, for what purpose do you rise, Sir?

**Senator Ellis:** Quick question.

**President:** Will Senator Ogden yield?

**Senator Ellis:** Senator, we were talking earlier and I did raise my concern about this not being means-tested, but I think you persuaded me. This would, as I understand it, be on top of a student's TEXAS grant?

**Senator Ogden:** Absolutely.

**Senator Ellis:** And out of our kids that are in the top 10 percent, I think you told me, 15, 20 percent of them are getting a TEXAS grant, somewhere in that range?

**Senator Ogden:** It's almost 30.

**Senator Ellis:** About 30 percent of them are getting a TEXAS grant? So this—

**Senator Ogden:** Thirty percent of the top 10 percenters are on TEXAS grants now.

**Senator Ellis:** So this would be on top of their TEXAS grants, so you'd be helping the folks who are on the early bus and on the late bus?

**Senator Ogden:** The, and when you say on top of it, the TEXAS grant can be used for something else.

**Senator Ellis:** OK.

**Senator Ogden:** They don't have to pay statutory tuition with it.

**Senator Ellis:** Thank you very much, you're doing a fine job.

**Senator Williams:** Mr. President.

**President:** Senator Williams, for, for what purpose do you rise?

**Senator Williams:** I have some questions for Senator Ogden, am I too late to ask those?

**President:** No.

**Senator Williams:** OK.

**President:** Will Senator Ogden yield to Senator Williams?

**Senator Williams:** Senator Ogden, I've been looking at your amendment, it looks kind of like the top 10 percent on steroids to me. I, I'm concerned about the fiscal implications of your amendment and what is this going to cost us during the next biennium? Do you know? Do we have a fiscal note on this?

**Senator Ogden:** Yes, I know, and I've only said it five times out here, 25 million.

**Senator Williams:** And how did you come up with that, have you talked about this earlier, because I didn't hear you say it?

**Senator Ogden:** Yes, Sir.

**Senator Williams:** OK.

**Senator Ogden:** All right, I'll go through the math. In our state there are 24,000 students who graduate in the top 10 percent. Of those 24,000, 15,000 are enrolled in our institutions of higher education. That there is a problem. Over 5,000 of them leave the state. Of the 15,000 enrolled in our institutions, if you exempt them from statutory tuition for one year, and this bill applies to the second year of the biennium, they save \$1,500 a year. Fifteen hundred dollars a year times 15,000 is \$22.5 million. The first year cost, which is the second year of the biennium, is \$22.5 million. On this floor, I've been using, I've been rounding up to 25.

**Senator Williams:** Twenty-five, OK.

**Senator Ogden:** Now, in a way, it's a cost but it's not, because it's the way the formulas work. When you run money through the formulas, the amount that a school gets is determined in part by how much GR dedicated that they charge their students. If the school is—

**Senator Williams:** I understand that, Senator Ogden—

**Senator Ogden:** But, but it, if, but, but—

**Senator Williams:** But there's still—

**Senator Ogden:** But let me make my point. If the school charges those students less GR and GR dedicated, i.e., The University of Texas, they get more formula funding.

**Senator Williams:** Right.

**Senator Ogden:** Not less.

**Senator Williams:** I understand that the schools are going to be fine, but I, I feel like that money, that extra money, that \$25 million of new money that we're going to have to give to the universities, that's going to come out of our GR just like, it's, this is part of the money that we're going to have to appropriate, it's new money, it's not existing funds?

**Senator Ogden:** Well—

**Senator Williams:** The schools will be held harmless, I understand what you're saying, they're not going to lose money because of this. But it's still going to be 25 million that we've got to do and then, I guess, the next biennium it would be 50 million, plus the 25 million from the biennium before, so that would be 75 million.

**Senator Ogden:** But, but it's—

**Senator Williams:** And then the next biennium it would be all of that 75 million plus another 50 million, which would be 125 million, and then the biennium after that it would be 250 plus another 50 million, which will be 300 million, and I think by then you would've leveled off. So I think what you're talking about is something between 300 and \$350 million when this matures at, using your numbers, which is only 15,000 of the 24, 25,000, that doesn't count any enrollment growth that we might have or, or anything like that. And it just seems like this is, this is an awfully big budget item that we're making here without having ever really considered this in the Finance Committee. I don't think this has been considered in the Higher Ed Subcommittee.

We've talked about it, and I've visited with you about it, but it just seems like, you know, this is a really, this is a big commitment that we're making. We shouldn't do this lightly, and really all we've got is some back of an envelope stuff that we're talking about here.

**Senator Ogden:** Well we don't have, my envelope back is a little bit more accurate than the one that you just did. But let's talk about this biennium, it's 25 million. If we allowed it to arithmetically multiply, in the next biennium it would be 125, OK.

**Senator Williams:** Right, that's what I said.

**Senator Ogden:** OK. If there's been one Member on my committee who has steadfastly talked about the problem of deregulated tuition, it's you.

**Senator Williams:** That's true.

**Senator Ogden:** And when we appropriate formula funding, the question always arises, what's it for? Because we appropriate all of the money that the universities and the formula say is needed to teach these classes, but we continue to raise tuition and fees for some, for other expenses that aren't exactly clear what they are. What this is doing is, is it's making more of the formula pay for the cost of educating the students because we're not appropriating that separate line item for statutory tuition, what we're appropriating is, is formula money to pay for these kids to go to college and what we're saying is, is that if you're in the top 10 percent, your school is going to get more formula money to teach them. Senator, I don't know how you could be against that.

**Senator Williams:** Well Senator Ogden—

**Senator Ogden:** Because, because— (inaudible, overlapping conversation)

**Senator Williams:** I think what you're saying doesn't finish the complete thought, and that's because what you're talking about, what your amendment deals with is statutory tuition, which is fixed, it doesn't do anything, and in a moment I'm, we're going to talk about the designated tuition, which is the part that's unregulated. And, so, the, but your amendment doesn't do anything to cap that unregulated piece, the designated tuition. Does it help families? Yes, it does, I agree with you. All I'm saying is, I think that we should carefully consider this and that it, at least, deserves, at the very least, it deserves that we should have a fiscal note and have some detailed analysis and some testimony in committee about how this might work and what, how we think it's going to affect our higher education budget.

**Senator Ogden:** You can have testimony till the cows come home but for the next biennium, you're talking about 25 million. Now you can be concerned about, just like we had this big debate about when we sunset this and what's going to happen two years from now, but, I think, you need to think about the principle on which this is based, and here is the principle. It costs too much to go to our state colleges and universities now. And at least for our top 10 percent students, we're not going to charge them as much because we—

**Senator Williams:** We're going to give them a discount.

**Senator Ogden:** Because we recognize—

**Senator Williams:** We're—

**Senator Ogden:** We recognize—

**Senator Williams:** We're going to give them a discount equal to—

**Senator Ogden:** And then, the—

**Senator Williams:** The statutory tuition—

**Senator Ogden:** Because they've earned it.

**Senator Williams:** That the designated tuition is going to—

**Senator Ogden:** Because they've earned it.

**Senator Williams:** And they have, I don't have a problem with that part of it, but they're going to continue to face increasing tuition costs. And, so I want to correct my math. A minute ago, I said 350, I think it matures out at 200 million, I think, maybe it had went one biennium too long on that, so once you get to the sixth year it's got its, it—

**Senator Ogden:** And—

**Senator Williams:** Would mature out.

**Senator Ogden:** And in this bill, I made the designated tuition portion subject to appropriation, and you and I and the conference committee are free to decide if we want to appropriate more money to reduce the designated tuition for top 10 percenters. But I would argue that this issue has, near as I can tell, has never been debatable with respect to our veterans, and I support it. And I think it's very important today to tell our top 10 percenters that there is some, some recognition of your hard work in our state colleges and universities.

**Senator Williams:** Well and so let me be clear of what you're saying here because I thought I heard you say a minute ago that this was not going to be used, that we wouldn't be able to use designated tuition as an offset to GR that gets appropriated to our institutions—

**Senator Ogden:** No, that—

**Senator Williams:** Of higher learning.

**Senator Ogden:** I think what Senator Shapiro was worried about was that I would somehow use this amendment to do even more, which is to change that offset to somehow freeze tuition, I mean, what I'm asking the Senate to do is to vote on this straight up or straight down. This is simply providing a scholarship for our top 10 percenters at our 35 institutions of higher education. From a budget standpoint in this biennium, it will cost \$25 million and there are no black helicopters, that's what I'm telling you.

**Senator Williams:** I didn't say there were any black helicopters—

**Senator Ogden:** Did I say— (inaudible, overlapping conversation)

**Senator Williams:** What I'm concerned about—

**Senator Ogden:** Then I say to Senator Harris, there are no black helicopters in this amendment.

**Senator Williams:** Well what I'm concerned about is the \$200 million cost that we're looking at in a couple of bienniums, that's what we're really talking about here. And, so we need to understand—

**Senator Ogden:** And I think—

**Senator Williams:** What we're committing ourselves to and that it's back of the envelope math that we're doing here, we don't really know that it'll just be 200, it could be more, it could be less. Thank you.

**President:** Chair recognizes Senator Shapiro on Floor Amendment No. 5.

**Senator Shapiro:** I addressed that.

**President:** It was so long ago. The Chair recognizes Senator Shapiro on Floor Amendment No. 5.

**Senator Shapiro:** It is acceptable to the author.

**President:** Members, Senator Ogden—

**Senator Wentworth:** Mr. President.

**President:** Senator Wentworth, I'm sorry, it didn't show.

**Senator Wentworth:** Amendment No. 5 is Senator Ogden's?

**President:** Yes, Sir, it is.

**Senator Wentworth:** Mr. President, I'm not a real expert on parliamentary procedure, but I don't think this amendment is germane, and I would call a point of order that it's not germane to this bill.

**President:** Would you and Senator Ogden and Senator Shapiro approach the podium? (Gavel) Members, the Senate will come to order. Senator Wentworth raised a point of order, which is sustained. Seeing now, Floor Amendment No. 6, and after consultation with Senator Wentworth, Senator Wentworth withdraws his point of order.

**Senator Wentworth:** Correct.

**President:** And on the floor in front of us is Floor Amendment No. 5, the Chair lays out the following floor amendment, Floor Amendment No. 6 by Senator Ogden, which is an amendment to Floor Amendment No. 5. We're in the process of passing out Floor Amendment No. 6 right now. The Secretary will read the amendment.

**Secretary:** Floor Amendment No. 6 by Ogden amending Floor Amendment No. 5.

**President:** The Chair recognizes Senator Ogden to explain Floor Amendment No. 6.

**Senator Ogden:** Mr. President and Members, I never thought I'd like this bill, but I have to in order to make it germane. So this amendment makes the amendment on the top 10 percent scholarships germane. This section applies to a person who's admitted

and enrolled under the automatic provision of Section 51.803c, which is the provision that we've been discussing for several hours. I move adoption of Amendment No. 6 to Amendment No. 5.

**President:** The Chair recognizes Senator Shapiro on Floor Amendment No. 6.

**Senator Shapiro:** This is acceptable to the author.

**President:** Members, Senator Ogden moves the adoption of Floor Amendment No. 5, which is, Amendment No. 6, which is amendment to Floor Amendment No. 5, is acceptable to the author. Senator Shapiro? Is there any objection from any Member?

**Senator Williams:** I just, I have a question.

**President:** Senator Williams. Will Senator Ogden yield to Senator Williams?

**Senator Ogden:** Yes, Sir. I yield.

**Senator Williams:** Tell me what we're doing here, Senator Ogden, I've just, I just had a second to look at it here so I'm—

**Senator Ogden:** Senator Williams, we, basically, Senator Wentworth felt that my amendment was not germane and so after a lengthy discussion we amended my Amendment No. 5 to make it germane to the bill. And we're now back on Amendment No. 5, which is exactly what— (inaudible, overlapping conversation)

**Senator Williams:** Well OK. So what you're doing is changing it from 51.803a to 51.803c?

**Senator Ogden:** Yes, Sir, which is—

**Senator Williams:** That's the only change?

**Senator Ogden:** Which is the provision that says that you can omit up to 50 percent and then you have a holistic approach after that.

**Senator Williams:** OK.

**President:** Members, the question is on the adoption of Floor Amendment No. 6, which amends Floor Amendment No. 5, is there any objection from any Member? The Secretary will call the roll. Chair recognizes Senator Shapiro on Floor Amendment No. 5 as amended.

**Senator Shapiro:** It is acceptable.

**President:** Chair recognizes Senator Patrick to explain Floor Amendment No. 7.

**Senator Patrick:** Thank you Mr. President. Members, this amendment, we've heard discussion, Senator Nelson asked Senator West if he would accept an amendment to end the top 10 percent rule before the next session and that was denied. And Senator Seliger gave it a shot to appeal it now and that lost, I'm going to give it another shot, and it simply says we're going to sunset the top 10 in 2011. In 2011 we sunset the top 10, that will give us an opportunity when session begins in 2011 to review the entire top 10 and begin with a blank slate. In the interim, if this bill passes the House the way it is, this does not affect Senator Ogden's amendment that we just passed, that the

students would still receive, in the top 10, scholarship money. So, I, Mr. President, asked adoption of Senate Amendment No. 7, which would sunset the top 10 percent in 2011.

**President:** Senator West, for what purpose do you rise, Sir?

**Senator West:** Question of the author.

**President:** Will Senator Patrick yield to Senator West?

**Senator West:** Senator Patrick, you don't believe the top 10 percent is working, is that correct?

**Senator Patrick:** I don't think it's working as was intended, and I don't think it's a fair system, I do not.

**Senator West:** OK. You're, you're a business person, right?

**Senator Patrick:** Yes.

**Senator West:** OK. You've negotiated a lot of different transactions, I assume, engaged in a lot of business transactions?

**Senator Patrick:** Right.

**Senator West:** Do you think that the legislative branch of government should be in a, have leverage over an executive agency that comes through here as it relates to having them justify whether we should continue a program or not, or the executive agency university should have leverage over the Legislature? Which way would you go?

**Senator Patrick:** I think, Senator West, and, you know, looking at the top 10, I think there are a lot of people in the state and Members of this floor—

**Senator West:** No, I understand what you're saying, I'm saying, in terms of trying to negotiate something, do you think that the Legislature should be in the driver's seat to determine whether or not something should still be the law and not be the law or allow the state agency to come in and dictate whether something is going to be the law or not the law?

**Senator Patrick:** Well we do that all the time.

**Senator West:** OK. So and I agree. And that's why we end up sunseting some of these agencies so they can come in and justify why, why they should still exist, right?

**Senator Patrick:** Correct.

**Senator West:** And, so what we're doing with the top 10 percent is saying, listen, as it relates to this cap right here, we're trying to sunset to cap, and let them come back in, in 2015, when we come back in 2015, and justify why we should grant them another cap. That's what we're doing, and it seems like that's the logical, you know, methodology as it relates to the top 10 percent, unless we just want to throw it out the door. And the reality is this, these kids are the best in brains we have in the State of Texas. Why would we want to do anything other than to encourage them? Did you vote for Senator Ogden's amendment?

**Senator Patrick:** I absolutely did, Senator West, and here's—

**Senator West:** What about—



**Senator Patrick:** What I think is, is really why his amendment and my amendment work in great harmony. If we eliminate the top 10, if we sunset it, we may, you know, we may vote for it again in 2011. We may say we want to revise it. But if we sunset it in 2011 we will have given four years an opportunity to see if Senator Ogden's logic is correct, which I think you supported his amendment, because I think you agreed that by giving all universities in the state an opportunity to get more money to give scholarships, that this top 10 will start getting invitations from universities across the state. And, so if that's the case, our best and brightest will at least get a significant part of their tuition paid for, and if we are paying for the top 10 percent students and we have all universities participating now on the scholarships, there is no need to have the top 10 percent to attract students, it will take care of itself.

**Senator West:** Thank you.

**Senator Patrick:** Thank you.

**President:** The Chair recognizes Senator Shapiro on Floor Amendment No. 7.

**Senator Shapiro:** It is unacceptable to the author.

**President:** Chair recognizes Senator Williams to explain Floor Amendment No. 8.

**Senator Williams:** Thank you, Mr. President. Members, I think we've had several votes here that dealt with top 10, the will of the body is fairly clear on that. This is a very simple amendment. Anyone who elects to, any institution that elects to avail themselves of the provision of the top 10 percent that's contained in this bill, the new revised provisions in Section C of the bill, would have their tuition capped at a rate that would not exceed the rate for the effective, for the preceding year. I move adoption.

**President:** The Chair recognizes Senator Shapiro on Floor Amendment No. 8.

**Senator Shapiro:** Well Mr. Chairman and Senator Williams, I absolutely understand where you're coming from here. You did it quite softly and with very little emphasis, but, Members, what this does is, really flies in the face of what we've been talking about here. It completely turns around the debate and it backs, and goes into the issue of reregulation, and I think that is an issue that is for another debate on another day and not to be an amendment on a bill on the top 10 percent rule. So I would, very respectfully, ask to table this amendment.

**President:** Senator Shapiro moves to table Floor Amendment No. 8, do you wish to speak on Floor Amendment No. 8?

**Senator Williams:** I move adoption. If you're concerned about rising tuition, this is the solution.

**President:** Senator, Senator Shapiro moves to table Floor Amendment No. 8, Senator Williams opposes, and the Secretary will call the roll. (Gavel) Members, there being 10 Ayes and 17 Nays on the motion to table by Senator Shapiro, the motion to table fails. Members, the motion, Senator Williams has the floor on Floor Amendment No. 8.

**Senator Williams:** Is it acceptable to the author?

**President:** The Chair recognizes Senator Shapiro on the amendment.

**Senator Shapiro:** Mr. President. We really need a moment of quiet here. Let's all collectively think about what we're trying to do. I know the sentiment on the floor and I certainly saw the vote, and I certainly understand everybody's concern. This has been a topic that we have been talking about and debating, very similar, I might add, to where we all get up in arms and talk about the moratorium on roads. That issue and a couple of other issues really do, as I like to say, light your hair on fire. What we cannot do, in my opinion, is make that the issue in this bill, and that's what we've done. We've taken this bill that was for the top 10 percent, and it was a compromise, and many of you have been in and out of rooms with a compromise. And, as much as I would love to say that this is a quick and easy fix to the tuition issue that exists in Texas today and the escalating tuition and the problems that we have with tuition, the vehicle that we are using to debate this, I believe, is wrong. So I understand your vote, I certainly sympathize, I feel that we have made a compromise in the top 10 percent. All of us agreed to the compromise, there were no free agents, so to speak, as we went through the program. And I would ask each of you to think about that as we go forward, I would love to vote, to look at what Senator Williams would like to do, but this issue is not the vehicle to go into reregulation for all of our school districts, I mean, for all of our schools. And, and, I might add, this only applies to UT because you have to be one of those schools or universities that enters into this program. So I ask you to think about what you're doing, I certainly understand the emotion, but I hope you'll take a deep breath and think about what we're about to do on a very major public policy change. And I think the issue of deregulation and reregulation is much greater than the top 10 percent. With that, Mr. President, I would respectfully ask that you do, that you vote no on the Floor Amendment No. 8.

**President:** Senator West is, and asked first. For what purpose do you rise, Sir?

**Senator West:** I'd like to speak on the amendment, also.

**Senator Williams:** I thought I had the floor.

**Senator West:** Well I'd like to, I'd like to—

**Senator Williams:** I would like to respond to Senator Shapiro's remarks, if I may.

**President:** The Chair recognizes Senator Williams to address the remarks by Senator Shapiro.

**Senator Williams:** Thank you.

**President:** And then, Senator West, I'll call on you to speak—

**Senator Williams:** Thank you.

**President:** On the amendment.

**Senator Williams:** Senator Shapiro, I understand how important this is to you and I, I worked really hard to help you get this bill out of committee, and I respect what you've tried to do here. And, just as many of us would like to see, at least 10 of us, it looks like from the votes on the floor, would like to see the top 10 percent completely repealed, if we can't end it, we'd rather not just try to fix it. We're having some incremental change with the top 10 percent rule and really that's what I'm doing with tuition here. We, I have tried ever, you know, Senator Nelson talked earlier about

wishing that she could recall her vote on the top 10 percent, that's the way I feel about my vote to deregulate tuition. During the, this is my sixth Regular Session and it is, it is very clear in my mind that the worst vote I've ever made was to deregulate tuition, that was the biggest mistake, the whole thing was misrepresented by the universities and what their intent was. And there's not a Member on this floor who hasn't been shocked and surprised by the breathtaking increase that we've had in tuition. And this is one small step to try to correct that problem. Just like we're having incremental progress on the top 10 percent, this is one small step. Members, I would urge for you to stay with me on this amendment, please.

**Senator Shapiro:** Mr. President.

**President:** Senator Shapiro, for what purpose do you rise?

**Senator Shapiro:** I would just like to respond to Senator Williams.

**President:** You're recognized.

**Senator Williams:** I yield.

**Senator Shapiro:** Thank you. The only thing, the only problem I have with this, and I want everybody to recognize, there are two ways for institutions of higher education to get money. They can either do it through tuition or they can do it through tuition and fees or they can do it through money that we give them. Period. It's called statutory, which is one, and then designated. Statutory is ours, designated is the one that they do with the Boards of Regents. If, in fact, we begin to do this, then we had better be prepared to put GR, to put money into our higher education system or what we're going to see is going to be a disgrace for our universities. They will not be able to do the job that they need to do. Two sources of money, one is statutory, which is what we give them, one is designated, which is their tuition. When you take away their tuition and fees and you limit their ability to raise them, you have to pay the consequence and that is, how much more GR are we ready to put in.

**Senator Williams:** Well, Senator Shapiro, I'm ready to put more GR into higher education and I would respond by saying, you know, our formula funding for the universities is driven by enrollment. And, the provisions that you have in this bill are permissive provisions, no one has to abide by this. They can continue to admit students under the top 10 percent rule and, so universities simply have a choice. If they don't want to cap their enrollment and then they can allow more students in, the 10 percent rule will not limit them, and we will fund them more through our formula funding because it's student enrollment that drives formula funding. So I think that what you said was true but it didn't complete the thought, and the completion of that is that it is enrollment and then, specifically, enrollment growth that drives money to the universities. And they can well afford to make more spots available for the entering freshman class because they'll receive additional funding. And, so, and they don't have to avail themselves if they don't want to continue to operate under the top 10 percent, they'll have the same type of formula funding that they have right now. So this is just a little carrot and a stick, that's what we're talking about. If you want to limit your enrollment, we're going to limit your growth and tuition, that's what we're really talking about.

**Senator Shapiro:** With all due respect, this is two sticks.

**Senator Hinojosa:** Mr. President.

**Senator Williams:** I guess that depends on how you look at it.

**Senator Hinojosa:** Mr. President, I'd like to ask a question of Senator Shapiro.

**President:** All right. Will Senator Shapiro yield to Senator Hinojosa?

**Senator Shapiro:** I do.

**Senator Hinojosa:** I just want to really understand where this amendment does. We're talking about the, coming back to regulate tuition only for The University of Texas?

**Senator Shapiro:** Yes.

**Senator Hinojosa:** Does that include A&M?

**Senator Shapiro:** No. Well until A&M comes into this program.

**Senator Hinojosa:** OK. So it doesn't impact the other universities, they could still set tuition—

**Senator Shapiro:** Raise tuition.

**Senator Hinojosa:** With whatever rate they want to.

**Senator Shapiro:** That's correct.

**Senator Hinojosa:** So this is really a pick at UT type of amendment.

**Senator Shapiro:** That's correct.

**Senator Hinojosa:** OK, I understand it now. Thank you.

**Senator Shapiro:** Thank you.

**Senator Williams:** Members, and I think I, do I still have the floor on this, no?

**President:** The Chair recognizes Senator West to speak on the bill?

**Senator West:** Mr. President. Members, I voted to, with Senator Williams, on tabling the motion. When Senator Shapiro asked to table it, I voted with Senator Williams to, not to table the motion. The reality is, is that most of us have dealt with or had our constituents call us about the runaway tuition, the fees that our students are having to pay. And, Senator Williams, you and I, shoulder to shoulder last session, went over to UT Board of Regents, and I look forward to continuing the battle with you on holding the cost of tuition and fees for our students in the State of Texas. But I also recognize that this is a delicately negotiated bill. And, out of an abundance of caution, I made certain that the bill goes through both Houses in the manner that has been negotiated. I reluctantly have to withdraw my support for the Williams amendment and will vote with the author of the bill on this amendment.

**President:** Senator Hinojosa, have you been recognized? All right. Senator Estes, for what purpose do you rise, Sir?

**Senator Estes:** To speak on the amendment.

**President:** You're recognized.

**Senator Estes:** Members, I would urge you to stick with Senator Shapiro on this, and I know we're dealing with the The University of Texas. This is my first vote, in my first session on this tuition dereg. Let me, and, we're getting into a whole another area here but what I was totally convinced of was the fact that Texas A&M and The University of Texas are both incredible institutions of international renown. It was obvious to me that this Legislature, in its collective wisdom, had totally undervalued the price of going to those schools. And I just want to let you know that my little school, Midwestern State University, after numerous tuition raises, was just voted as the school with the, public school in the nation still with the best value for its education. I've heard a lot of Senators say that they felt like it was a terrible vote. I think it was a good vote because I think these Boards of Regents can look at what the market will bear and they run it like a business, and, believe me, they're looking at it every time, and they can decide much better than we can what the tuition should be. Please stick with Senator Shapiro.

**President:** Senator Patrick, for what purpose do you rise, Sir?

**Senator Patrick:** Question to comment on the amendment, question to— (inaudible)

**President:** Will Senator Williams yield?

**Senator Williams:** I yield.

**Senator Patrick:** Thank you Senator. And again, we're both on Education, we served with Senator Shapiro. I know we've done everything we can to get this bill this far. We want to see it succeed. At the same time our tuition rates for our students are very high and going higher every year. And while Senator West eloquently said a lot of people have worked a long time trying to put this deal together to get it through the House, the people back home weren't in those discussions, and the people back home didn't have a say, and I think if the people were here they would say, keep tuition rates as low as you can. So I would urge the Members to stay with Senator Williams. Thank you.

**President:** Chair recognizes Senator Williams to close on Floor Amendment No. 8.

**Senator Williams:** Thank you Mr. President. I just have a couple of comments that I'd like to make. You know, it, one of the comments was that I am picking on The University of Texas at Austin with this amendment, and I want to say it for the record and for the Members of this body that nothing could be farther from the truth. That this only applies to The University of Texas to the extent that they take advantage of this modified top 10 percent rule. And it would apply to any other university that took advantage of the modified top 10 percent rule, so it's no more disingenuous to say that, that it doesn't apply to the UT in Austin than it is to say that this whole bill is nothing but about addressing a problem at one university. And, so this applies to any school that would take advantage of the modified provisions of the top 10 percent rule that Senator Shapiro's put forward in her bill. Mr. President, I would, out of respect to the Members of this body at this point, I'd like to withdraw Floor Amendment No. 8, please.

**President:** Members, Floor Amendment No. 8, Senator Williams withdraws Floor Amendment No. 8. The Chair recognizes Senator Shapiro for a motion.

**Senator Shapiro:** Mr. President, I move passage to engrossment of Committee Substitute to Senate Bill 101 at this time.

**President:** Members, Senator Shapiro moves the passage to engrossment of Committee Substitute to Senate Bill 101, as amended. Is there any objection from any Member? Senator Wentworth, for what purpose do you rise, Sir?

**Senator Wentworth:** Parliamentary inquiry.

**President:** State the inquiry.

**Senator Wentworth:** I'm trying to follow these amendments. My understanding is that we had a vote on Senator Williams' floor amendment? Is that correct?

**President:** There was a motion to table, which failed.

**Senator Wentworth:** Which failed, and then he withdrew it. OK.

**President:** Then he withdrew the amendment.

**Senator Wentworth:** That explains, thank you very much.

**President:** Senator Shapiro moves the passage to engrossment of Committee Substitute to Senate Bill 101, as amended, is there any objection from any Member? Chair hears no objection from any Member, and Committee Substitute to Senate Bill 101, as amended, passes to engrossment.