doing that, there's really nothing under current law
to allow you to do that, is there?

MR. SHORTER: Well, they're a registrar
who has some concerns, has reasonable concerns, does
have the capacity to challenge, but there's not
provisions for once those challenges are made for you
to do much with it.

SEN. FRASER: Okay. Under current law,
as we say here, even if there's a challenge -- and
let's say that -- let's go back to the Horseshoe
Bay -- let's go to the Horseshoe Bay example.

MR. SHORTER: Yes, sir.

SEN. FRASER: If I voted twice there,
you'd know it was me and probably they would say it's
a challenge, and they probably could call the D.A. and
say "The Senator just voted twice. We need to check
into it." But the question is, I just voted twice, I
just placed two ballots, what would happen to those
ballots? Would they be put in the pile to be counted?

MR. SHORTER: Yes.

SEN. FRASER: Okay. So I just voted
illegally. You knew I voted illegally. You're going
to report me to the D.A., but I just voted. And if
that is a close election, that County Commissioner
that I voted for, and they're going to be within one
or two votes, I just impacted an election by voting illegally.

MR. SHORTER: Would you allow me to defer to my general counsel on whether or not that actual vote would count twice?

SEN. FRASER: I'm sorry. I didn't say it was going to count twice. I voted twice. I'm saying I voted as Troy Fraser and I voted as Steve Fraser, and both of those votes I voted under current law. The vote, my understanding is, and I've asked the registrar of these counties what they would do, if someone comes and votes and they place a vote, they have to put it in the pile to count. But even if there's appeal, they could pursue it and possibly get an indictment. But I think what you're saying is if it's hard to catch them, it's even much harder to prosecute.

MR. SHORTER: And, Senator, on that -- on that particular question, I think my best response to you is for you to allow me the opportunity to research that one and get back with you as soon as possible --


MR. SHORTER: -- because I'm really not clear on that one.
SEN. FRASER: The other question I would ask you and that I want to clarify, if someone suspects the scenario that we just talked about where they suspect somebody has voted illegally, it got put in the pile to count and they think that they voted twice like the lady with the big hat, if that is referred to someone to check it out, if it happens in Dallas, probably that's going to go to the District Attorney, or they could send it to -- directly to the Attorney General, or it's possible it could be sent to you, but if they send it to you, aren't you going to refer it to the District Attorney and the AG? Is that correct?

MR. SHORTER: If a complaint is sent to the Secretary of State's Office, our office looks at the complaint, and there's a general assumption among the staff and the Secretary of State's Office and that assumption is if the information that is being presented on that -- on that complaint is actually considered true, and if it's true we -- of course understand, Senator, our office does not do the investigation. But if the allegations as presented would present a crime under the elections code, our office would refer it to the Attorney General's Office.
SEN. FRASER: Okay. And I guess the follow-up question to that is if it's hard to identify and it's hard to prosecute and there's two other sources, the assumption is that the number of these going to your office probably -- is it great? If they're having trouble identifying it and they're having trouble prosecuting it, do you --

MR. SHORTER: Correct. Senator, the number -- in terms of -- I can give you some statistics. In terms of the Secretary of State's Office since September 1, 2007, there were 50 written complaints sent to our office, and those -- those were -- our office looked through those. We looked at them to see if there was merit. Actually related to -- complaints related to voter impersonation, we found about seven of those complaints. Two of them were actually referred, one was not referred, and one is pending. One is pending with our office now to be actually referred to the AG's Office.

SEN. FRASER: Thank you, Mr. Shorter. I do appreciate the information.

SEN. DUNCAN: Sen. Van de Putte or -- Sen. Van de Putte? And the court reporter has been going for about almost two hours. If we could -- you take as long as you need, but I would propose that we
let her take a break in about ten minutes, if we
could.

SEN. VAN de PUTTE: Thank you,
Mr. Chairman, and thank you very much for being here
particularly in the late -- excuse me -- the early
hour that we're in now in the next day.

I wanted to ask a few of the questions
earlier yesterday. In speaking to Sen. Fraser when he
laid out the bill, I asked several questions at that
time. He said that the Secretary of State's Office
would be the most appropriate. So the questions that
I'm asking you are actually the ones that Sen. Fraser
had asked me to ask.

You. And please give our regards to my
dear friend and fellow San Antonian Hope Andrade.

I wanted to ask you if you would just
take a look at the bill, and hopefully you have a copy
of that or your general counsel has that for you. On
the first page in Section 15.005 --

MR. SHORTER: Uh-huh.

SEN. VAN de PUTTE: -- there's a
timeline between the requirements when each voter
registration certificate issued under Section 13.142
or renewal registration certificate issued under
Section 14.001. In the Senate Bill that is proposed,
we have to do a lot of changes to educate our election
judges and our clerks. What happens in the timeframe
between the people with current registrations that are
caught between the renewal for purposes of education?

MR. SHORTER: For purposes of
education of --

SEN. VAN de PUTTE: Yeah.

MR. SHORTER: -- of the new bill?

SEN. VAN de PUTTE: Yeah.

MR. SHORTER: Well, Senator, what we
would do -- what our office is planning on doing for
all elections-related bills, we're in the process
right now of doing the long-term planning for voter
education for our office. And voter education in our
office deals with some specific things. Voter
education in our office deals with we want -- we want
to talk about where to vote, how to vote, what do you
need to vote, what are the items that you need to
vote, all the resources. So we're planning that now.

If this bill were passed or any other
bill that you would pass related to changes in a
requirement for voting, as we continue to develop our
module for voter education, we would be able to put
the requirements that this bill or any other bill has
into our planning module for voter education that
we're currently developing.

SEN. VAN de PUTTE: Since the proposed regulations and rules would be greatly changed from the process that Texas voters have used in the past several years with the requirements of the voter certificate and a photo identification, how would the Secretary of State's Office propose to inform voters of these changes?

MR. SHORTER: Senator, we would inform through the existing process that we have, which is a pretty extensive process. For instance, during the last year on voter education, it was a $3 million process that we undertook to inform voters of what's going to be going on in the election cycle that ended in November of 2008. We're doing that now.

It would mean that our office would have to make sure that all of the changes are implemented, and implementation would mean all notifications that would need to be made, we would have to get that done. All training for county Election Officials through our current -- through our current system of educating county workers, election workers, which we hold periodically through the year, we would implement or make sure that this new information is a part of that process. Poll worker training, which we're looking at
right now, we would also make sure that those things within the bill that actively affect poll workers, those changes will be put into what we're doing now or what we're planning to do.

Generally after -- during a session when a session is over, there are a lot of election bills that are passed, and our pattern of preparing for coming out of session, going into a season of getting ready for elections, we start looking at what bills have been passed. We're putting together the structure now on what we're doing on voter education and then fit those into the model. Sometimes when there are major changes like this, it does require more work on our -- a heavier workload on our staff, but the staff at the agency has proven time after time that they're capable of doing it.

SEN. VAN de PUTTE: Well, I believe that the Secretary of State's Office and particularly this Secretary of State, is more than willing and it's been shown. My concern is that -- have you seen the fiscal note that is attached to the implementation of this bill?

MR. SHORTER: Yes, ma'am, I have.

SEN. VAN de PUTTE: According to the fiscal note, your -- the Office of the Secretary of
State.

MR. SHORTER: Uh-huh.

SEN. VAN de PUTTE: -- is to absorb the cost. Given that, how do you plan to notify each of the voters, given that in Indiana and Georgia individual mailings were made to each registered voter informing them of the change in voter ID? And since we have no legal, I guess, basis, at least in our fiscal note, for the Secretary of State to implement that, how would the Secretary of State's Office plan to inform each voter, which were the requirements that they felt under -- to get pre-clearance under the Voting Rights Act, how would you all achieve that with zero money?

MR. SHORTER: Senator, we would -- we would achieve that by using the funds that we've been using to do it in the past. We would use the HAVA Funds that have been set aside for voter education. I remember your asking this question earlier about the zero fiscal note that our office put on it. We put it on there, and when this bill -- when a similar bill was filed like this in the previous session, staff shared with me that there was a zero fiscal note on it as well, and it was because HAVA dollars were able to be used.
SEN. VAN de PUTTE: I believe the fiscal note for the voter ID bill in the 80th Legislative Session that was passed by the House was at $600,000, and so we --

MR. SHORTER: Yes, ma'am.

SEN. VAN de PUTTE: So that's what I wanted to ask is that -- I know that Hope is very good at squeezing dollars, but how do you -- how does the Secretary of State's Office plan to inform -- and it's not just the training. From what we understand of all voter ID laws that have been passed, each of those Secretaries of State have done an individual mailing, not just posting on the Web, not that. Do you plan to send an individual mailing to each voter with or without the passage of this bill?

MR. SHORTER: That -- first of all, that would be, of course, Secretary Andrade's decision.

As for that $600,000 fiscal note in the previous bill, that was not a fiscal note that was put on by the Secretary of State's Office. My understanding is that was a fiscal note that was put on by DPS. Even though that fiscal note was $600,000 put on by DPS, our fiscal note on that previous bill, if I'm understanding correctly, is that it was still zero because we were not looking at those funds to --
SEN. VAN de PUTTE: Okay.

MR. SHORTER: -- and we do still now.

For instance, right now in voter education, in HAVA dollars, we still have $2 million left. Our staff, in anticipation of bills coming out of the session, we've been working with the EAC already to see -- make sure that bills that are passing through the House and through the Senate or through the Legislature of Texas would be able to -- we would be able to use HAVA dollars for that. We feel comfortable that we can, but we don't want to get towards the end of the session and find out that we were incorrect.

SEN. VAN de PUTTE: Thank you. I would also ask the questions that I asked Sen. Fraser that they said that the Secretary's Office would be more appropriate. With regard to naturalized citizens, what is the difference between a certificate -- a citizenship certificate, which is in the first section of the bill that's allowable with the photo ID, and citizenship papers, which is allowed under the second part of the bill?

MR. SHORTER: Senator, I remember your asking that question earlier today, and I asked our staff today to help me and answer that question. They have not gotten back to me, of course, at four o'clock
this morning. But if you would allow me to get you
the answer to that in a few hours, I will provide that
for you.

SEN. VAN de PUTTE: Thank you. That
would be helpful to us since we have 56,000
naturalized citizens. And I believe the certificate
is the eight by eleven certificate that is issued at
the time of naturalization, which has a photo, but in
the case of many of our constituents who have been
naturalized it is a photo of them when they were a
young child or a young adult, and the citizenship
papers may be the little wallet size card. So it
doesn't have a photo.

MR. SHORTER: Yes, ma'am.

SEN. VAN de PUTTE: But I think because
of the language and since it's each of those
documents, it would be very helpful to us.

And I know that there are probably some
more questions from other members, but I know that our
Stenographer has been there, but when you come back, I
know that some of the questions, if I have the chance
to ask, or maybe one of the other members, is the
statistical and demographic data of our current Texas
voters and who are registered.

MR. SHORTER: Yes, ma'am.
SEN. VAN de PUTTE: So I will stop at this point the questions so that we can take a break, but just to let you know that's probably coming up.

MR. SHORTER: Thank you.

SEN. VAN de PUTTE: Thank you, Mr. Chairman. I'll proceed after.

SEN. DUNCAN: Do you want to maintain the floor when you come back?

SEN. VAN de PUTTE: I would love to maintain the floor after just to continue, but I don't want to go beyond the 4:40 a.m.

SEN. DUNCAN: Okay. We will then -- Members, with that we will stand at ease for ten minutes and be back at 4:50.

(Recess: 4:41 a.m. to 4:53 a.m.)

SEN. DUNCAN: Okay. Members, we'll come back to order. Sen. Van de Putte has the floor.

Before she begins again, we'll have -- I need to make this announcement to the folks who are in the gallery or who are waiting to be in public testimony. The Chair would request that anyone wishing to testify return to the registration desk and check in with the clerk. This will allow the clerk to pull the relevant witness cards, and we can proceed through public testimony more efficiently. All
witness information will be entered into the record
and witnesses present and testifying will be noted as
such. Those who do not testify will be entered into
the record as nontestifying but registering their
position for or against the Senate Bill 362. We think
this will be a way to help facilitate those and also
give us a little better idea of how to manage yours
and our time.

Sen. Van de Putte, you’re recognized.

SEN. VAN de PUTTE: Thank you,
Mr. Chairman.

Thank you. It’s good to be back with
you again. Before I ask some of the demographic data,
there was one part that I forgot to ask that I had
asked Sen. Fraser and wanted to reiterate. Under the
proposed bill, we have two different types of military
ID as well: Those military IDs that have a photograph
and the military IDs that do not have a photograph,
and they are listed, I think, in two different
sections of the bill.

My question is having to deal with the
inconsistencies of addresses with our military
members, not veterans. Once they’re veterans, they’re
living in Texas and not here because of the duty
station. Under the provisions of this bill or maybe
even currently, but currently our military members do
not have to show a photo identification. Under this
bill they would. How would a clerk or election judge
treat the inconsistencies in nonalignment of address
on the photo ID with the -- with the certificate?

MR. SHORTER: Senator, I don't have that
answer, but I will get it for you, and that would
involve -- and I'll tell you what I will go through:
Asking my staff and also visiting with the clerks to
see have they seen this, is this something that has
happened already, or based on this particular
bill would it happen.

SEN. VAN de PUTTE: Well, I don't think
we know because they don't have to show a photo ID.

MR. SHORTER: Correct; you're right;
you're right; absolutely.

SEN. VAN de PUTTE: And because many of
those members that are here still have their own
state's driver's license because -- or they're issued
the DOD license on some installations, it doesn't
reconcile with the voter certificate.

MR. SHORTER: Right.

SEN. VAN de PUTTE: And particularly for
those career military who then become civilian, they
keep their -- that because they may be going to
retire, and it's particular. So if you would do that?

MR. SHORTER: Yes, ma'am.

SEN. VAN de PUTTE: And in that also how
would, under the proposed bill, we treat the
inconsistencies in addresses in college students who
may still keep their primary place of residence, which
is their home and the home of their parents, for
purposes of their driver's license because that's
their permanent address and they are only temporary,
yet choose to register in the town that they are now
going to college. So the photo identification or
driver's license does not match up with the
certificate. So those are two instances where how
would that -- those be treated.

MR. SHORTER: Yes, ma'am.

SEN. VAN de PUTTE: My other question
is -- we know from some of the data that the affected
groups and what we -- what is the state's burden to
prove at the Department of Justice is the availability
for African-Americans, Hispanics, language groups to
be afforded the same ability, in other words, no
discrimination? Can you tell us of the 13 million
plus voters, do we know how many voters are
African-American in the State of Texas?

MR. SHORTER: Senator, we don't know