NORTH CAROLINA GENERAL ASSEMBLY
HOUSE REDISTRICTING COMMITTEE

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TRANSCRIPT OF THE PROCEEDINGS
SESSION ONE

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In Raleigh, North Carolina
Thursday, February 18, 2016
Reported by Rachel L. Hammond, CVR-M

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trigger the need for a second primary. If that’s known to you now, would you share that with the committee?

MS. STRACH: I will. Okay. There are the potential for second primaries in the Republican North Carolina Commissioner of Insurance race; the Republican Governor primary; NC House District 6 Republican; NC House District 28 Republican; NC House District 33 Democrat; NC House District 44 Republican; NC House District 81 Republican; NC House District 91 Republican; North Carolina Lieutenant Governor Democrat; NC Senate Republican – 31 Republican; State Senate 36 Republican; State Senate 48 Republican; and Superintendent of Public Instruction Republican.

REP. LEWIS: Thank you, Ms. Strach. I apologize. So, the total races that currently could trigger a second primary, number, how many?

MS. STRACH: Thirteen.

REP. LEWIS: Thirteen. And, Ms. Strach, can you speak -- and I realize this is -- I didn’t prepare you for this, so let the Chair apologize in advance.

Can you speak to what the normal turnout for a presidential year primary is versus what the normal turnout for a presidential year runoff is in percentage point? If you need to have staff look that up, we can come back to it.

everybody needs to understand it. We need to understand what is at stake if we make this decision versus that decision. So, with that, the Chair is going to start with a series of questions. And, Ms. Strach, you take all of the time you need to answer them. And if I don’t ask it clearly, restate what I need to ask because I want the members to understand what we’re trying to figure out here.

So the first one would be under the current law we have a primary scheduled for March 15, and under current law if the 40 percent threshold is not achieved by a person seeking office, that triggers a second primary. And, first of all, is that right? And on what date is that currently set for?

MS. STRACH: That is correct. The person would be eligible for a second primary. It depends on if the race was a federal race or a state race. If it was a state race, that would be May 3. It would be seven weeks after the March primary. If that vacancy occurs in a federal race, that would be ten weeks after the March 15 primary, which would be May 24.

REP. LEWIS: And, Ms. Strach, if you have the information with you, if you don’t, perhaps your staff could get that. You’ve advised the Chair that it is known which races might potentially, under current law,
closed.

REP. LEWIS: And because it is very important, would you just remind the members of the committee about all of this, notwithstanding how much time is generally required from when whatever date an election is going to be held on -- will be held, there's a certain number of days that you've got to be able to mail absentees, a certain number of days prior to that you've got to mail out military and overseas. Just explain to folks how much time we are actually trying to deal with here.

MS. STRACH: Sure. After we have any sort of candidate filing, we have to be able to have absentee ballots by state law for a primary, you have to mail those out at least 50 days prior to the election. Federal law requires 45 days for overseas and military, but our state law is 50 days instead of 45.

REP. LEWIS: And, Ms. Strach, are you aware of elections in the past for primary elections when the General Assembly has elected to forgo the second primary or the -- you know, to forgo the second?

MS. STRACH: I think that is true. I would have to go back and research exactly, but that certainly has happened when we've had special primaries.

REP. LEWIS: So, Ms. Strach, I guess this is a leading question, but to make sure we can kind of frame where I hope the committee can offer input. Were we to attempt to schedule the congressional primary, a new congressional primary that is triggered by this court decision, on the same day as currently -- the current scheduled runoff, the challenges would be either the books would remain closed so new people couldn't register to participate in the congressional runoff, or we would change the law to where books would remain open so that people could register and vote, even change parties. Which means if they had not participated in the original primary, they might could change their party and vote in the second at the same time they vote in the congressional one. Is that pretty right? Is that what we are trying to balance here?

MS. STRACH: That is the major difficulty with combining a first primary with a second primary because the books would be closed for anyone that was wanting to participate in the second primary, but we certainly would have to open the books for anyone that was participating in a first primary. So what you would have is you would have a registration period happening after March 15. Anyone that registered during that period would be eligible to vote for the congressional race, but they wouldn't be eligible to vote for a second primary. The problem for us is we do not have the capability from our electronic poll books to have a second primary and a first primary on the same day of election. We could if it was on paper. We could do it by paper, but electronically, we can't do that.

REP. JACKSON: Follow-up, Mr. Chairman.

REP. LEWIS: Members, the Chair is going to suspend his inquiries for a minute and see -- Representative Jackson, you're recognized for an inquiry to Ms. Strach.

REP. JACKSON: Thank you, Mr. Chairman, and I'll have a few questions. I'll go through the Chair.

REP. LEWIS: Please.

REP. JACKSON: But I'm going to start by asking you the approximate cost of the statewide -- having 13 congressional primaries, that would be a statewide election.

MS. STRACH: Right, we have -- we don't have a lot of historic data on cost, but fortunately we did -- we do have cost data from the 2014 general election. Because we have matching hours, as that would be included in that. So the 2014 general election, it cost statewide about 9.5 to over 10 million -- $9.5 million to conduct elections, and that includes the matching hours provisions for early voting. And that would be probably comparable to what it would cost to do a primary over. That is probably comparable to what it would cost for the March 15 primary.

REP. JACKSON: Follow-up, Mr. Chairman.

REP. LEWIS: The gentleman is recognized.

REP. JACKSON: Okay. Thank you. And some of the potential primary runoffs you gave earlier were not statewide. They were like a local House district or something like that.

MS. STRACH: Are you talking about the second primary?
REP. JACKSON: Yes, ma'am.

MS. STRACH: Exactly, it would only be the particular race that was subject to a second primary. It might not be statewide.

REP. JACKSON: Any idea how much that costs and just a comparable House district or Senate district or any kind of breakdown you have on that?

MS. STRACH: I don't have that. I mean, certainly, you would not have -- in some of those, you would not have all of your precincts open, so the cost would be potentially less in a county. It depends on what the seat was that was subject to it.

REP. JACKSON: Mr. Chairman, can I just follow up?

REP. LEWIS: Yes, sir. The gentleman is recognized.

REP. JACKSON: Okay. Thank you. And if the decision was made to delay the March 15 primary for all elections and put the congressional primary and everything on the same date, what would be the earliest if we opened filing next Monday? What would be the earliest we could have a new primary election? Would it be May 3 or May 24?

MS. STRACH: No, I don't think so. If -- you were saying to do everything?

REP. JACKSON: Do you have any idea what that --

MS. STRACH: What that date would be? I would have to sort of -- let me see if I can calculate that up. So you're saying starting now, from now when would that be? So I would say that would be seven, eight, nine, probably 13 to 14 weeks from now.

REP. JACKSON: Okay. And if we were to do that and only had a primary election with no runoffs, then that would save us approximately, $9.5-10 million by only having one statewide primary?

MS. STRACH: Well, I don't know that. And the reason I don't know that is because costs have already -- we've already -- I mean, I don't think it would save you because first of all, counties have already paid for their ballots. They've already paid for coding. They've already done all of that already for March 15. I would say most of the cost of the 2015 -- March 15 have already been spent for a lot of that. So they would have to then -- all of these ballots that have been printed, have gone out, would then have to be reprinted, recoded, and all of those would not be able to be used.

REP. JACKSON: Continue to follow-up? Okay,

REP. JACKSON: Yes, ma'am.

MS. STRACH: You mean everything that is currently on our March 15 ballot?

REP. JACKSON: Yes, ma'am.

MS. STRACH: We would move that to a new primary date that would include these congressional seats.

REP. JACKSON: Yes, ma'am.

MS. STRACH: Okay. So what we -- where we would start is we would have to have a filing period for the new congressional seats, so whatever time period you would have for that. After that -- well, first of all, before we would do that, we would have to -- our counties would have to apply these new districts. So the time -- we think that will probably take around one to two weeks to make sure we audit. You'd have a filing period. Then you would have to -- we'd have to recode all ballots with the ones that are currently on the ballot, adding these congressional races as well. That usually takes -- between coding, proofing, printing ballots, having what we call logic and accuracy testing by our counties, making sure that works, that's an additional seven weeks that takes. And then you would have to have that ready so that you could have absentee ballots go out at least 50 days before the election date that you would want.

REP. JACKSON: Do you have any idea what

MS. STRACH: That's right. And I understand that no decision has been made yet to when it would be on a ballot in that particular Superior Court district; is that correct?

MS. STRACH: No, it has been. It would be -- by statute, it would be on the second -- date of the second primary.

REP. JACKSON: On May 3?

MS. STRACH: If there were no federal second primaries, it would be May 3.

REP. JACKSON: Okay. So --

MS. STRACH: So if there was a federal race that was subject to a second primary, all second primaries move to May 24.

REP. JACKSON: Okay. Are there other litigation like that or districts like that that present the need to have a new filing period?

MS. STRACH: Those are the only ones we have had vacancies. I think at this time that we have that are subject to having a new filing period.
REP. JACKSON: And I understand that earlier today, there was a decision made in reference to the North Carolina Supreme Court. 

MS. STRACH: Yes, that is true. Absolutely. So that is a potential for one, yes.

REP. JACKSON: Okay. And does that impact your filing needs or deadlines or anything like that? Or is there potential we would have to have a third statewide primary in a Supreme Court race if we didn’t wait until --

MS. STRACH: I think it’s the -- based on the timing of this, I mean, we have not seen the order to that, and we’ve tried to get that from the Attorney General’s Office. They don’t have it yet, either. So after looking at it, I think it is all based on the timing of that.

REP. JACKSON: Thank you, Mr. Chairman. I will let someone else have a chance.

REP. LEWIS: Representative Michaux, did you have some questions, sir?

REP. MICHAUX: I've got a couple of questions.

REP. LEWIS: Yes, sir. You are recognized.

Yes, sir. You are recognized.

Actually, Representative Michaux, before you start, Ms. Strach, if you’d prefer to sit, you’re welcome to.

MS. STRACH: I’m good.

REP. LEWIS: Representative Michaux, did you have some questions, sir?

REP. MICHAUX: I've got a couple of questions.

REP. LEWIS: Yes, sir. You are recognized.

REP. MICHAUX: Let me back up a little bit and get to the -- with these districts, whatever we pass, I am understanding that a new filing period will be open. Will that filing period be the same period of time that we have now?

MS. STRACH: I think you would have to -- that would be a decision that you all will have to make.

REP. MICHAUX: In other words, we could set --

MS. STRACH: Yes.

REP. MICHAUX: We could set the filing period time.

MS. STRACH: Yes, you could.

REP. MICHAUX: I'll hold up right now, Mr. Chairman. I've got a couple of other questions I need to think out.

REP. LEWIS: Members, the Chair would like to interject a couple of questions for Ms. Strach.

Ms. Strach, currently under state law there is a -- for lack of a better term, a withdrawal date, which is the point at which a candidate for office has to declare they no longer wish to appear on the ballot. Would you tell the committee what that date is and what the -- is there a way to get off the ballot after that point, currently?

MS. STRACH: No. The law states that three days before the end of the filing period if you do not withdraw, if the candidate does not withdraw within
three days of the closing of the filing period, their
name will remain on the ballot. They may not withdraw.

REP. LEWIS: And, Ms. Strach, may a candidate
be -- may an individual be a candidate for two
different offices at the same time?

MS. STRACH: No, they may not.

REP. LEWIS: All right. I want to change the
focus just a bit because I want the members to have a
full understanding of this. Would you speak about the
requirements in state law currently regarding the early
voting time that must be allowed? And would you speak
on if there is a difference between a presidential year
and non-presidential year?

MS. STRACH: Absolutely. Current law states
that early voting time is ten days prior to the
election and that counties have to have early voting
sites that match hours to previous elections. So for
the 2015 -- the presidential primary on March 15,
counties have to have sites and hours that match the
2012 primary because that was a presidential election.
Any other primary that we have would match the 2010
primary. So, this one that we have -- because the
presidential candidates are on the ballot, they have to
match the 2012 primary. If a presidential candidate is
not on the ballot for a primary, we match hours to

2010's primary.

REP. LEWIS: Thank you.


REP. MICHAUX: Okay. Let me clear up
something. Wake County now has to vote for a Superior
Court Judge.

MS. STRACH: Correct.

REP. MICHAUX: The state now -- well, let me --
I'm presupposing this one, since it was a unanimous
decision from that three-judge panel that the retention
matter was unconstitutional. And the possibility of
the judge that, in effect, recusing himself on appeal
if there's a tie on that, that is what could possibly
happen. You've got that situation coming up, and then
you've got the congressional elections coming up. How
do you dovetail all of this together in -- I guess, on
a basis where it ain't going to cost us an arm and a
leg? That is where I'm going.

MS. STRACH: We've certainly got our work cut
out for us, Representative Michaux. Certainly we want
cost to counties to be as low as possible. All
counties, for every primary, they always have to
anticipate there is going to be a second primary. And
they always have to anticipate that that second
primary, if there are statewide races on the ballot

that that statewide candidate may be part of that
second primary. So they budget for a second primary as
if they would have their whole county open. The
Superior Court seat that you are speaking of in Wake
County, by statute it says that election -- if there is
a primary for that, and there is, that it would be held
on the date of that second primary, so it wouldn't
require another election. Now the other matter that
you're talking about, whether or not if we have to have
a new filing period for the Supreme Court seat -- like
I said, we haven't seen the order, so I don't know what
the timing is. But if we have to have, we could have a
filing period and potentially put that at the same time
as this as well.

REP. LEWIS: Please continue, sir.

REP. MICHAUX: Okay. Now let me paint another
scenario for you: On April 15, a three-judge federal
panel will be hearing the legislative redistricting
cases. There are three possible verdicts coming --
that could come out of that. One, they could declare
defines districts constitutional. Number two, they could
declare those legislative districts unconstitutional.

MS. STRACH: Right.

REP. MICHAUX: And number three, along with the
unconstitutionality, they could declare the March 15
primary null and void. Where are we in that type of
situation? And if folks think I'm going overboard,
this is a very distinct possibility because it has
happened before.

MS. STRACH: So your question to me is if based
on what happens in that trial, right -- certainly if
you have to go back and draw new legislatures -- is
that what you are saying?

REP. MICHAUX: Yes.

MS. STRACH: Right. So right now we're going
forward with the March 15 primary. Ballots are out so
that is moving forward. But that would be April --
let's see --

REP. MICHAUX: The case -- the trial starts
April 15.

MS. STRACH: Right, so that is after the
March 15 primary.

REP. MICHAUX: One month.

REP. JONES: Right, one month after that. So
if we had to do that, we certainly would be sort of in
the position that we are currently with the
congressional maps. You would have to come back,
redraw those, and then we would have to do sort of the
same thing that we're doing now with the -- going
through all of the processes to implement those. You
would have to redraw those lines and all of the ballot
coding, so that would probably be a later -- would have
to be a later date.

REP. MICHAUX: Mr. Chairman, last thing, I
guess what I'm trying to get at, Ms. Strach, is that,
knowing the possibilities that could exist with a
decision coming out like that, whether or not it might
be a good idea to try -- and we would not be -- we
wouldn't use any time but we could save money by
waiting probably until after that decision -- like
scheduling the primary for sometime in late May, first
part of June, in order to have them all run together.
I guess that's where I'm headed.

MS. STRACH: I guess, Representative Michaux, I
understand what you're saying. The only thing that I
think we've got to worry about -- we've got to put this
primary in between the current primary and the general
election. So we've got to make sure that there is time
enough because we can't delay the general election.
That we don't push things out so far that we are not
able to comply with absentee requirements for the 2000
[sic] general election. So we could certainly -- we're
limited in how far we can push out any primary.

REP. MICHAUX: I guess what I'm getting at is,
is it not better to set a new primary date and forget
about the March 15 date? That is where I'm going.

MS. STRACH: Well, I hope we won't forget about
the March 15 date because there are lots of things that
are on that ballot. There are lots of ballots that
have already been voted, and the counties have incurred
tremendous cost in all of those things. So, there are
certainly other things that are on that ballot that are
not in question.

REP. MICHAUX: But you do have that right now
in your congressional races.

MS. STRACH: Exactly. Those races are on the
ballot, and we don't have to -- we have the ability not
to certify those and count those, and count the other
races that are actually -- can be certified.

REP. LEWIS: Representative Stam.

REP. STAM: Yes. Ms. Strach -- Mr. Chairman,
I'd like her opinion, advice, on what to do. Will we
get to that?

REP. LEWIS: We probably will. Let's hold that
for just a moment. The Chair has just a couple of
more. On the question of the congressional races that
appear on the March 15 ballot, the Chair realizes that
you just stated that the State Board would not certify
those. Would those also be kept confidential, or are
they a public record? How does that work?
Representative Stam, I'll --

Representative Michaux, cause I was hear in my youth -- I don't know.

Representative Michaux asked a question why it wouldn't necessarily be true. I understand that. But Representative Michaux asked a question about the ballots, and you said, well, I hope not. The counties have already paid to print those and do those things.

Maybe one way to solve this is for this special election that we have to hold because -- we may have to hold because of some three-judge federal court. Maybe for that one special election, we just won't do runoff primaries, and you will be even happier than you used to be.

And, Ms. Strach, on that point, in years past when the second -- I don't know if I'm calling it right. It is called the second primary; is that correct?

It is called the second primary.

In years past, when the second primary was canceled, was the first primary held with the understanding that it was going to be canceled?
before filing.

MS. STRACH: The three days before, yes.

REP. JACKSON: Follow-up, Mr. Chairman.

REP. LEWIS: The gentleman is recognized.

REP. LEWIS: We'll try to get that for you Representative Jackson.

REP. HAGER: Thank you, Mr. Chairman. I spoke with my counsel here to my right. She said about 8-9.5 cent per pound for tea in China, by the way.

Ms. Strach, thank you for coming here. I appreciate you're knowledge of the subject. You expressed earlier that to add another primary sometime instead of moving all of the primaries wouldn't really cause that much cost because you said most of the counties had already expended a lot dollars already on ballots and those things. Do you have an idea about what percentage they have already expended, approximately, towards the March 15 primary?

MS. STRACH: I don't know. I know that they have already -- what they have paid for is they all have all of their ballots. They all have all of their ballot coding. All of that is what I consider probably the most significant cost of the election. They would have the cost of -- they probably have secured all of their sites. We know they have secured their sites for early voting. So I'm not sure how they have paid for those. But the costs they probably -- the only thing they probably haven't paid for is for their poll workers?

REP. HAGER: Follow-up, Mr. Chairman.

REP. LEWIS: Yes, sir. The gentleman is recognized.

REP. HAGER: Thank you. Would it -- now, don't let me put words in your mouth, and I apologize. Would it be safe to say that if you took that and just said we're not going to have that March 15 primary and we moved it somewhere else, it does not save significant dollars to do that.

MS. STRACH: If you -- I want to make sure I understand your question. If you do not hold the March 15?

REP. HAGER: Correct.

MS. STRACH: And you do all of those races over?

REP. HAGER: Correct.

MS. STRACH: That would be certainly additional costs where they have already expended costs for ballots and coding that would never be able to be used.

REP. MICHAUX: Mr. Chair.

REP. LEWIS: Yes, sir, Representative.

REP. MICHAUX: I thought I understood his question to be that if you moved the primary, if you moved the primary, would there be additional cost from congressional primary for May 24-ish, could I wait and see how I did in that congressional primary before deciding if I wanted to remove my name from the November general election?

MS. STRACH: No, you could not because that would be dual offices.

REP. JACKSON: Okay. Thank you. And then one last question. We recently, I believe, had a Court of Appeals election where we were not able to have a primary, and so we had 19 or 20 candidates on the --

MS. STRACH: We certainly did.

REP. JACKSON: And follow-up, Mr. Chairman.

REP. LEWIS: The gentleman is recognized.

REP. JACKSON: And I believe that is for an eight-year term.

MS. STRACH: Yes.

REP. JACKSON: Okay. And what was the winning -- the candidate who won that race, what percentage of the statewide vote did they get?

MS. STRACH: I would have to look that up. I'm not sure what the percentage was.

REP. JACKSON: Was it around 20 percent or less?

MS. STRACH: I don't know. I don't know, but I could certainly get that for you.
March the 15th?

REP. HAGER: Mr. Chair, would you like me to restate my question?

REP. LEWIS: Please.

REP. HAGER: I think Ms. Strach answered it correctly. If you did away with the March 15 primary and you held another primary sometime in the future, and moved everybody to that, my understanding of what you said is due to the already expenses of the ballots, the ballot coding and those things, you would not see significant dollars savings. I think the -- as an illustration, I think a lot of folks would assume that if you did away with the March 15 ballot and you moved it to another date, that you would save all of that money that you were going to spend on March 15. But that doesn't seem to be true because of the ballots and the ballot coding have already been paid for; is that correct?

MS. STRACH: That's -- the money has already been spent.

REP. LEWIS: And, Ms. Strach, you may or may not be able to answer this, if not, I'll just withdraw. It is my understanding -- it is the Chair's understanding that the political parties have submitted plans to the national political parties that contemplate their allocation of delegates to the national convention that's based on the March 15 primary. Do you have any knowledge as to how a change in that would have impact on the national parties or the ability to participate?

MS. STRACH: I don't know that, Chairman Lewis.

REP. LEWIS: Members, we're about to stand at ease as we try to digest this and then bring a bill before the committee to address these concerns. Does any other member have anything that we might can -- Representative Michaux.

REP. MICHAUX: How long are we going to be at ease?

REP. LEWIS: I think that is an excellent question, Representative Michaux. How long would you like to be at ease?

REP. MICHAUX: Until tomorrow morning.

REP. LEWIS: The gentleman is certainly dismissed. If you will, sir, the Chair doesn't feel comfortable giving an exact timeframe. To be totally candid with you, we are going to confer -- you can see that we have excellent central staff with us, but none of them are our usual redistricting or election staff because they are tied up working on this bill and waiting for us to respond to them based on some of what we've heard. So it may be just a while, but the Chair will give you this commitment. The Chair will come back once we are at ease five or ten minutes or so and give you a more definitive time. But while Ms. Strach is here -- Representative Jackson, did you have an additional inquiry?

REP. JACKSON: I just had a request for the Chair.

REP. LEWIS: The gentleman may state his request.

REP. JACKSON: Having heard what we've heard and I believe I've got a good idea where we're going, I was wondering if a staff member could be made available to myself so that I can draft some possible amendments once we see a bill, so as not to slow us down later in the evening.

REP. LEWIS: Representative Jackson, you have an anxious central staff awaiting to assist you.

Members not necessarily on the committee, while Ms. Strach is here, we've made it clear that even members that are not on the committee can participate in the redistricting hearing. Does anybody have an inquiry for Ms. Strach while she's here? If not the committee will be at ease for ten minutes.

(The committee went at ease at 4:24 p.m.)

REP. STAM: Members of the committee, Chairman Lewis has asked me to advise you that the Speaker is going to put the House in recess until 5:15. And we are still in recess, but it will be a little bit. We'll try to keep you informed.

(The House Redistricting Committee recessed at 4:46 p.m.)

REP. STAM: Members of the committee, Chairman Lewis has asked me to announce that we plan to reconvene at 6:00, take up the bill that should be ready, hot off the press, debate it for about 30 minutes, and then be in session at 7:00. So if anybody needs to get something to eat now -- here at 6:00, on the floor at 7:00.

(THE PROCEEDINGS IN THIS MATTER RECESSED AT 5:15 P.M.)
STATE OF NORTH CAROLINA  
COUNTY OF WAKE  

CERTIFICATE  
I, Rachel L. Hammond, a Notary Public in and for the State of North Carolina duly commissioned and authorized to administer oaths and to take and certify hearings, do hereby certify that on February 18, 2016, this hearing was held before me at the time and place aforesaid, that all parties were present as represented, and that the record as set forth in the preceding 37 pages represents a true and accurate transcript of the proceedings to the best of my ability and understanding.  
IN WITNESS WHEREOF, I have hereto set my hand, this the 25th day of February, 2016.  

______________________________________________  
Notary Public  
Rachel L. Hammond  
Notary Number  
201126500152