

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE REDISTRICTING COMMITTEE

TRANSCRIPT OF THE PROCEEDINGS
SESSION ONE

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

Worley Reporting
P.O. Box 99169
Raleigh, NC 27624
919-870-8070

<p style="text-align: right;">2</p> <p>1 (Reporter's note: Proceedings in this matter 2 began at 3:41 p.m. on February 18, 2016.) 3 REP. LEWIS: Members of the House Redistricting 4 Committee, I welcome you and appreciate you being with 5 us here today. 6 I want to start briefly by thanking our 7 Sergeant-at-Arms. The Sergeant-at-Arms has certainly 8 done yeoman's work over the past week and a half trying 9 to accommodate these abbreviated schedules. Regie 10 Seals, Marvin Lee, Terry McCraw, David Light, and Joe 11 Crook and Warren Hawkins. 12 Members, we are going to do things a little bit 13 differently than we've done in the past, and part of it 14 is because we have some important decisions to make 15 that we all need to be fully informed about the options 16 that we face. So with that, I'm going to ask Ms. 17 Strach and any of her staff that she likes, to join us 18 from the Board of Elections to come up to the dais. 19 And the Chair has a series of questions that he would 20 like to propose, and then we are going to recognize the 21 members to propose them as well. And then we're going 22 to try to get into talking about what this abbreviated 23 or amended filing period should look like. I realize 24 it's a little bit different than how we usually run a 25 committee, but the information is very important. And</p>	<p style="text-align: right;">4</p> <p>1 trigger the need for a second primary. If that's known 2 to you now, would you share that with the committee? 3 MS. STRACH: I will. Okay. There are the 4 potential for second primaries in the Republican North 5 Carolina Commissioner of Insurance race; the Republican 6 Governor primary; NC House District 6 Republican; NC 7 House District 28 Republican; NC House District 33 8 Democrat; NC House District 44 Republican; NC House 9 District 81 Republican; NC House District 91 10 Republican; North Carolina Lieutenant Governor 11 Democrat; NC Senate Republican -- 31 Republican; State 12 Senate 36 Republican; State Senate 48 Republican; and 13 Superintendent of Public Instruction Republican. 14 REP. LEWIS: Thank you, Ms. Strach. I 15 apologize. So, the total races that currently could 16 trigger a second primary, number, how many? 17 MS. STRACH: Thirteen. 18 REP. LEWIS: Thirteen. And, Ms. Strach, can 19 you speak -- and I realize this is -- I didn't prepare 20 you for this, so let the Chair apologize in advance. 21 Can you speak to what the normal turnout for a 22 presidential year primary is versus what the normal 23 turnout for a presidential year runoff is in percentage 24 point? If you need to have staff look that up, we can 25 come back to it.</p>
<p style="text-align: right;">3</p> <p>1 everybody needs to understand it. We need to 2 understand what is at stake if we make this decision 3 versus that decision. So, with that, the Chair is 4 going to start with a series of questions. And, Ms. 5 Strach, you take all of the time you need to answer 6 them. And if I don't ask it clearly, restate what I 7 need to ask because I want the members to understand 8 what we're trying to figure out here. 9 So the first one would be under the current law 10 we have a primary scheduled for March 15, and under 11 current law if the 40 percent threshold is not achieved 12 by a person seeking office, that triggers a second 13 primary. And, first of all, is that right? And on 14 what date is that currently set for? 15 MS. STRACH: That is correct. The person would 16 be eligible for a second primary. It depends on if the 17 race was a federal race or a state race. If it was a 18 state race, that would be May 3. It would be seven 19 weeks after the March primary. If that vacancy occurs 20 in a federal race, that would be ten weeks after the 21 March 15 primary, which would be May 24. 22 REP. LEWIS: And, Ms. Strach, if you have the 23 information with you, if you don't, perhaps your staff 24 could get that. You've advised the Chair that it is 25 known which races might potentially, under current law,</p>	<p style="text-align: right;">5</p> <p>1 MS. STRACH: I might have to do that. I can 2 tell you that on the 2008, a primary that would be 3 similar to this one, 2008 primary I think we had around 4 37 percent turnout for the primary. We have had -- 5 where we've had -- you said -- your other question was 6 when we've had a second primary? A second primary is 7 always a lot, lot lower. I mean, usually in the -- 8 certainly in the low-single-digits often. I think that 9 is pretty generally the case. 10 REP. LEWIS: Okay. And, Ms. Strach, would you 11 speak to the members of the committee. The Chair 12 understands that, based on current law, if a primary -- 13 if the primary is held on May 15 under current law, and 14 it triggers a runoff on either May 3 or May 24, the 15 voter rolls are locked between that time. Could you 16 speak to that and explain that to the committee? 17 MS. STRACH: Sure. The way the voter 18 registration system is addressed in statute, if a 19 second primary is necessary, it is considered a 20 continuation of the first primary. So for that 21 purpose, the registration books are closed. So 22 tomorrow is the voter registration deadline other than 23 if people register during the early voting period for 24 same-day registration. There would be no more voter 25 registration for a second primary; the books would be</p>

<p style="text-align: right;">6</p> <p>1 closed.</p> <p>2 REP. LEWIS: And because it is very important,</p> <p>3 would you just remind the members of the committee</p> <p>4 about all of this, notwithstanding how much time is</p> <p>5 generally required from when whatever date an election</p> <p>6 is going to be held on -- will be held, there's a</p> <p>7 certain number of days that you've got to be able to</p> <p>8 mail absentees, a certain number of days prior to that</p> <p>9 you've got to mail out military and overseas. Just</p> <p>10 explain to folks how much time we are actually trying</p> <p>11 to deal with here.</p> <p>12 MS. STRACH: Sure. After we have any sort of</p> <p>13 candidate filing, we have to be able to have absentee</p> <p>14 ballots by state law for a primary, you have to mail</p> <p>15 those out at least 50 days prior to the election.</p> <p>16 Federal law requires 45 days for overseas and military,</p> <p>17 but our state law is 50 days instead of 45.</p> <p>18 REP. LEWIS: And, Ms. Strach, are you aware of</p> <p>19 elections in the past for primary elections when the</p> <p>20 General Assembly has elected to forgo the second</p> <p>21 primary or the -- you know, to forgo the second?</p> <p>22 MS. STRACH: I think that is true. I would</p> <p>23 have to go back and research exactly, but that</p> <p>24 certainly has happened when we've had special</p> <p>25 primaries.</p>	<p style="text-align: right;">8</p> <p>1 period would be eligible to vote for the congressional</p> <p>2 race, but they wouldn't be eligible to vote for a</p> <p>3 second primary. The problem for us is we do not have</p> <p>4 the capability from our electronic poll books to have a</p> <p>5 second primary and a first primary on the same day of</p> <p>6 election. We could if it was on paper. We could do it</p> <p>7 by paper, but electronically, we can't do that.</p> <p>8 REP. LEWIS: So provided this committee were to</p> <p>9 choose to leave the March 15 primary as it is, allow</p> <p>10 the required runoffs to occur on either May 3 or March</p> <p>11 -- or May 24 and then attempt to trigger a new</p> <p>12 election, it would be 50 days out. So that would put</p> <p>13 the new election for Congress in August; is that right?</p> <p>14 MS. STRACH: Yeah, I think because you would</p> <p>15 have to, not just 50 days out, you would also have to</p> <p>16 have the time for coding ballots. You would have to</p> <p>17 have a filing period for that seat. It would be though</p> <p>18 -- it would end up being sometime in -- if you had the</p> <p>19 May 24 or May 3, you would end up somewhere in mid-late</p> <p>20 August.</p> <p>21 REP. LEWIS: Members, the Chair is going to</p> <p>22 suspend his inquiries for a minute and see --</p> <p>23 Representative Jackson, you're recognized for an</p> <p>24 inquiry to Ms. Strach.</p> <p>25 REP. JACKSON: Thank you, Mr. Chairman, and</p>
<p style="text-align: right;">7</p> <p>1 REP. LEWIS: So, Ms. Strach, I guess this is a</p> <p>2 leading question, but to make sure we can kind of frame</p> <p>3 where I hope the committee can offer input. Were we to</p> <p>4 attempt to schedule the congressional primary, a new</p> <p>5 congressional primary that is triggered by this court</p> <p>6 decision, on the same day as currently -- the current</p> <p>7 scheduled runoff, the challenges would be either the</p> <p>8 books would remain closed so new people couldn't</p> <p>9 register to participate in the congressional runoff, or</p> <p>10 we would change the law to where books would remain</p> <p>11 open so that people could register and vote, even</p> <p>12 change parties. Which means if they had not</p> <p>13 participated in the original primary, they might could</p> <p>14 change their party and vote in the second at the same</p> <p>15 time they vote in the congressional one. Is that</p> <p>16 pretty right? Is that what we are trying to balance</p> <p>17 here?</p> <p>18 MS. STRACH: That is the major difficulty with</p> <p>19 combining a first primary with a second primary because</p> <p>20 the books would be closed for anyone that was wanting</p> <p>21 to participate in the second primary, but we certainly</p> <p>22 would have to open the books for anyone that was</p> <p>23 participating in a first primary. So what you would</p> <p>24 have is you would have a registration period happening</p> <p>25 after March 15. Anyone that registered during that</p>	<p style="text-align: right;">9</p> <p>1 I'll have a few questions. I'll go through the Chair.</p> <p>2 REP. LEWIS: Please.</p> <p>3 REP. JACKSON: But I'm going to start by asking</p> <p>4 you the approximate cost of the statewide -- having 13</p> <p>5 congressional primaries, that would be a statewide</p> <p>6 election.</p> <p>7 MS. STRACH: Right, we have -- we don't have a</p> <p>8 lot of historic data on cost, but fortunately we did --</p> <p>9 we do have cost data from the 2014 general election.</p> <p>10 Because we have matching hours, as that would be</p> <p>11 included in that. So the 2014 general election, it</p> <p>12 cost statewide about 9.5 to over 10 million -- \$9.5</p> <p>13 million to conduct elections, and that includes the</p> <p>14 matching hours provisions for early voting. And that</p> <p>15 would be probably comparable to what it would cost to</p> <p>16 do a primary over. That is probably comparable to what</p> <p>17 it would cost for the March 15 primary.</p> <p>18 REP. JACKSON: Follow-up, Mr. Chairman.</p> <p>19 REP. LEWIS: The gentleman is recognized.</p> <p>20 REP. JACKSON: Okay. Thank you. And some of</p> <p>21 the potential primary runoffs you gave earlier were not</p> <p>22 statewide. They were like a local House district or</p> <p>23 something like that.</p> <p>24 MS. STRACH: Are you talking about the second</p> <p>25 primary?</p>

<p style="text-align: right;">10</p> <p>1 REP. JACKSON: Yes, ma'am.</p> <p>2 MS. STRACH: Exactly, it would only be the</p> <p>3 particular race that was subject to a second primary.</p> <p>4 It might not be statewide.</p> <p>5 REP. JACKSON: Any idea how much that costs and</p> <p>6 just a comparable House district or Senate district or</p> <p>7 any kind of breakdown you have on that?</p> <p>8 MS. STRACH: I don't have that. I mean,</p> <p>9 certainly, you would not have -- in some of those, you</p> <p>10 might not have all of your precincts open, so the cost</p> <p>11 would be potentially less in a county. It depends on</p> <p>12 what the seat was that was subject to it.</p> <p>13 REP. JACKSON: Mr. Chairman, can I just</p> <p>14 follow up?</p> <p>15 REP. LEWIS: Yes, sir. The gentleman is</p> <p>16 recognized.</p> <p>17 REP. JACKSON: Okay. Thank you. And if the</p> <p>18 decision was made to delay the March 15 primary for all</p> <p>19 elections and put the congressional primary and</p> <p>20 everything on the same date, what would be the earliest</p> <p>21 if we opened filing next Monday? What would be the</p> <p>22 earliest we could have a new primary election? Would</p> <p>23 it be May 3 or May 24?</p> <p>24 MS. STRACH: No, I don't think so. If -- you</p> <p>25 were saying to do everything?</p>	<p style="text-align: right;">12</p> <p>1 days before the election date that you would want.</p> <p>2 REP. JACKSON: Do you have any idea what</p> <p>3 that --</p> <p>4 MS. STRACH: What that date would be? I would</p> <p>5 have to sort of -- let me see if I can calculate that</p> <p>6 up. So you're saying starting now, from now when would</p> <p>7 that be? So I would say that would be seven, eight,</p> <p>8 nine, probably 13 to 14 weeks from now.</p> <p>9 REP. JACKSON: Okay. And if we were to do that</p> <p>10 and only had a primary election with no runoffs, then</p> <p>11 that would save us approximately, \$9.5-10 million by</p> <p>12 only having one statewide primary?</p> <p>13 MS. STRACH: Well, I don't know that. And the</p> <p>14 reason I don't know that is because costs have</p> <p>15 already -- we've already -- I mean, I don't think it</p> <p>16 would save you because first of all, counties have</p> <p>17 already paid for their ballots. They've already paid</p> <p>18 for coding. They've already done all of that already</p> <p>19 for March 15. I would say most of the cost of the</p> <p>20 2015 -- March 15 have already been spent for a lot of</p> <p>21 that. So they would have to then -- all of these</p> <p>22 ballots that have been printed, have gone out, would</p> <p>23 then have to be reprinted, recoded, and all of those</p> <p>24 would not be able to be used.</p> <p>25 REP. JACKSON: Continue to follow-up? Okay,</p>
<p style="text-align: right;">11</p> <p>1 REP. JACKSON: Yes, ma'am.</p> <p>2 MS. STRACH: You mean everything that is</p> <p>3 currently on our March 15 ballot?</p> <p>4 REP. JACKSON: Yes, ma'am.</p> <p>5 MS. STRACH: We would move that to a new</p> <p>6 primary date that would include these congressional</p> <p>7 seats.</p> <p>8 REP. JACKSON: Yes, ma'am.</p> <p>9 MS. STRACH: Okay. So what we -- where we</p> <p>10 would start is we would have to have a filing period</p> <p>11 for the new congressional seats, so whatever time</p> <p>12 period you would have for that. After that -- well,</p> <p>13 first of all, before we would do that, we would have</p> <p>14 to -- our counties would have to apply these new</p> <p>15 districts. So the time -- we think that would probably</p> <p>16 take around one to two weeks to make sure we audit.</p> <p>17 You'd have a filing period. Then you would have to --</p> <p>18 we'd have to recode all ballots with the ones that are</p> <p>19 currently on the ballot, adding these congressional</p> <p>20 races as well. That usually takes -- between coding,</p> <p>21 proofing, printing ballots, having what we call logic</p> <p>22 and accuracy testing by our counties, making sure that</p> <p>23 works, that's an additional seven weeks that that</p> <p>24 takes. And then you would have to have that ready so</p> <p>25 that you could have absentee ballots go out at least 50</p>	<p style="text-align: right;">13</p> <p>1 and how many -- I'm familiar -- I'm from Wake County.</p> <p>2 I represent Wake County, and so I know that we -- I</p> <p>3 guess last week had a Superior Court special filing</p> <p>4 period.</p> <p>5 MS. STRACH: That's right.</p> <p>6 REP. JACKSON: And I understand that no</p> <p>7 decision has been made yet to when it would be on a</p> <p>8 ballot in that particular Superior Court district; is</p> <p>9 that correct?</p> <p>10 MS. STRACH: No, it has been. It would be --</p> <p>11 by statute, it would be on the second -- date of the</p> <p>12 second primary.</p> <p>13 REP. JACKSON: On May 3?</p> <p>14 MS. STRACH: If there were no federal second</p> <p>15 primaries, it would be May 3.</p> <p>16 REP. JACKSON: Okay. So --</p> <p>17 MS. STRACH: So if there was a federal race</p> <p>18 that was subject to a second primary, all second</p> <p>19 primaries move to May 24.</p> <p>20 REP. JACKSON: Okay. Are there other</p> <p>21 litigation like that or districts like that that</p> <p>22 present the need to have a new filing period?</p> <p>23 MS. STRACH: Those are the only ones we have</p> <p>24 had vacancies, I think at this time that we have that</p> <p>25 are subject to having a new filing period.</p>

14

1 REP. JACKSON: And I understand that earlier
2 today, there was a decision made in reference to the
3 North Carolina Supreme Court.
4 MS. STRACH: Yes, that is true. Absolutely.
5 So that is a potential for one, yes.
6 REP. JACKSON: Okay. And does that impact your
7 filing needs or deadlines or anything like that? Or is
8 there potential we would have to have a third statewide
9 primary in a Supreme Court race if we didn't wait
10 until --
11 MS. STRACH: I think it's the -- based on the
12 timing of this, I mean, we have not seen the order to
13 that, and we've tried to get that from the Attorney
14 General's Office. They don't have it yet, either. So
15 after looking at it, I think it is all based on the
16 timing of that.
17 REP. JACKSON: Thank you, Mr. Chairman. I will
18 let someone else have a chance.
19 REP. LEWIS: Representative Michaux, did you
20 have some questions, sir?
21 REP. MICHAUX: I've got a couple of questions.
22 REP. LEWIS: Yes, sir. You are recognized.
23 Yes, sir. You are recognized.
24 Actually, Representative Michaux, before you
25 start, Ms. Strach, if you'd prefer to sit, you're

15

1 welcome to.
2 MS. STRACH: I'm good.
3 REP. LEWIS: Okay. Please proceed.
4 REP. MICHAUX: Let me try to get this straight,
5 Ms. Strach, if we go ahead with the primary on
6 March 15, we will do so without the congressional
7 primary; is that correct?
8 MS. STRACH: What the congressional -- those
9 seats are on the ballot. When this decision came down,
10 absentee ballot period had already started. Right now
11 we have had over 22,000 ballots that contain these
12 congressional races are already out and being voted.
13 They will be on the ballots on March 15. It is just we
14 will not certify those elections.
15 REP. MICHAUX: So we can't --
16 MS. STRACH: We can't take it back.
17 REP. MICHAUX: There's no sense in marking that
18 ballot for that race at that time; is that correct?
19 MS. STRACH: Right. If those districts are
20 not -- if we can't count those -- right, that is how we
21 will do it. We will -- people can mark those. We will
22 just not count those. We will not certify those
23 results.
24 REP. MICHAUX: Okay. Then since -- we would
25 then have to come back and vote again, will -- the

16

1 filing period will be reopened. At what point will the
2 filing period be reopened for the congressional races?
3 MS. STRACH: Whenever you set that it opened.
4 We can open a filing period for these congressional
5 races pretty quickly. We would need to do that after
6 probably the canvas of the March 15 election. But we
7 can open it up immediately.
8 REP. MICHAUX: And that would entail having
9 another registration period for that?
10 MS. STRACH: You would just have another filing
11 period for that. And you would, we would open -- after
12 the March 15 primary, we would open up the registration
13 books again to take voter registration, and then we
14 would close that 25 days before any primary.
15 REP. MICHAUX: Once all of that is done, how
16 soon after we would determine when that -- how soon
17 after we determine when that election is going to be,
18 will a runoff be if there is a need for one?
19 MS. STRACH: The runoff for a congressional?
20 REP. MICHAUX: Congressional.
21 MS. STRACH: So the runoff for the
22 congressional would be -- by statute, it would be ten
23 weeks after that primary.
24 REP. MICHAUX: Let me back up a little bit and
25 get to the -- with these districts, whatever we pass, I

17

1 am understanding that a new filing period will be open.
2 Will that filing period be the same period of time that
3 we have now?
4 MS. STRACH: I think you would have to -- that
5 would be a decision that you all will have to make.
6 REP. MICHAUX: In other words, we could set --
7 MS. STRACH: Yes.
8 REP. MICHAUX: We could set the filing period
9 time.
10 MS. STRACH: Yes, you could.
11 REP. MICHAUX: I'll hold up right now, Mr.
12 Chairman. I've got a couple of other questions I need
13 to think out.
14 REP. LEWIS: Members, the Chair would like to
15 interject a couple of questions for Ms. Strach.
16 Ms. Strach, currently under state law there is a -- for
17 lack of a better term, a withdrawal date, which is the
18 point at which a candidate for office has to declare
19 they no longer wish to appear on the ballot. Would you
20 tell the committee what that date is and what the -- is
21 there a way to get off the ballot after that point,
22 currently?
23 MS. STRACH: No. The law states that three
24 days before the end of the filing period if you do not
25 withdraw, if the candidate does not withdraw within

<p style="text-align: right;">18</p> <p>1 three days of the closing of the filing period, their 2 name will remain on the ballot. They may not withdraw. 3 REP. LEWIS: And, Ms. Strach, may a candidate 4 be -- may an individual be a candidate for two 5 different offices at the same time? 6 MS. STRACH: No, they may not. 7 REP. LEWIS: All right. I want to change the 8 focus just a bit because I want the members to have a 9 full understanding of this. Would you speak about the 10 requirements in state law currently regarding the early 11 voting time that must be allowed? And would you speak 12 on if there is a difference between a presidential year 13 and non-presidential year? 14 MS. STRACH: Absolutely. Current law states 15 that early voting time is ten days prior to the 16 election and that counties have to have early voting 17 sites that match hours to previous elections. So for 18 the 2015 -- the presidential primary on March 15, 19 counties have to have sites and hours that match the 20 2012 primary because that was a presidential election. 21 Any other primary that we have would match the 2010 22 primary. So, this one that we have -- because the 23 presidential candidates are on the ballot, they have to 24 match the 2012 primary. If a presidential candidate is 25 not on the ballot for a primary, we match hours to</p>	<p style="text-align: right;">20</p> <p>1 that that statewide candidate may be part of that 2 second primary. So they budget for a second primary as 3 if they would have their whole county open. The 4 Superior Court seat that you are speaking of in Wake 5 County, by statute it says that election -- if there is 6 a primary for that, and there is, that it would be held 7 on the date of that second primary, so it wouldn't 8 require another election. Now the other matter that 9 you're talking about, whether or not if we have to have 10 a new filing period for the Supreme Court seat -- like 11 I said, we haven't seen the order, so I don't know what 12 the timing is. But if we have to have, we could have a 13 filing period and potentially put that at the same time 14 as this as well. 15 REP. LEWIS: Please continue, sir. 16 REP. MICHAUX: Okay. Now let me paint another 17 scenario for you: On April 15, a three-judge federal 18 panel will be hearing the legislative redistricting 19 cases. There are three possible verdicts coming -- 20 that could come out of that. One, they could declare 21 those districts constitutional. Number two, they could 22 declare those legislative districts unconstitutional. 23 MS. STRACH: Right. 24 REP. MICHAUX: And number three, along with the 25 unconstitutionality, they could declare the March 15</p>
<p style="text-align: right;">19</p> <p>1 2010's primary. 2 REP. LEWIS: Thank you. 3 Rep. Michaux. 4 REP. MICHAUX: Okay. Let me clear up 5 something. Wake County now has to vote for a Superior 6 Court Judge. 7 MS. STRACH: Correct. 8 REP. MICHAUX: The state now -- well, let me -- 9 I'm presupposing this one, since it was a unanimous 10 decision from that three-judge panel that the retention 11 matter was unconstitutional. And the possibility of 12 the judge that, in effect, recusing himself on appeal 13 if there's a tie on that, that is what could possibly 14 happen. You've got that situation coming up, and then 15 you've got the congressional elections coming up. How 16 do you dovetail all of this together in -- I guess, on 17 a basis where it ain't going to cost us an arm and a 18 leg? That is where I'm going. 19 MS. STRACH: We've certainly got our work cut 20 out for us, Representative Michaux. Certainly we want 21 cost to counties to be as low as possible. All 22 counties, for every primary, they always have to 23 anticipate there is going to be a second primary. And 24 they always have to anticipate that that second 25 primary, if there are statewide races on the ballot</p>	<p style="text-align: right;">21</p> <p>1 primary null and void. Where are we in that type of 2 situation? And if folks think I'm going overboard, 3 this is a very distinct possibility because it has 4 happened before. 5 MS. STRACH: So your question to me is if based 6 on what happens in that trial, right -- certainly if 7 you have to go back and draw new legislatures -- is 8 that what you are saying? 9 REP. MICHAUX: Yes. 10 MS. STRACH: Right. So right now we're going 11 forward with the March 15 primary. Ballots are out so 12 that is moving forward. But that would be April -- 13 let's see -- 14 REP. MICHAUX: The case -- the trial starts 15 April 15. 16 MS. STRACH: Right, so that is after the 17 March 15 primary. 18 REP. MICHAUX: One month. 19 REP. JONES: Right, one month after that. So 20 if we had to do that, we certainly would be sort of in 21 the position that we are currently with the 22 congressional maps. You would have to come back, 23 redraw those, and then we would have to do sort of the 24 same thing that we're doing now with the -- going 25 through all of the processes to implement those. You</p>

22

1 would have to redraw those lines and all of the ballot
2 coding, so that would probably be a later -- would have
3 to be a later date.

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

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

24 REP. MICHAUX: I guess what I'm getting at is,
25 is it not better to set a new primary date and forget

23

1 about the March 15 date? That is where I'm going.

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

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

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

15 REP. LEWIS: Representative Stam.

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

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

24

1 MS. STRACH: Currently they would be a public
2 record. You would have to provide something to us that
3 would instruct us that they're confidential and they
4 shouldn't be disclosed. And then we will do what we
5 have to do to make that happen.

6 REP. LEWIS: And, Ms. Strach, I'd like your
7 opinion on this, and then I really would appreciate if
8 the members of the committee would weigh in as well.
9 And please listen to what I'm trying to describe, this
10 scenario, the people that have filed to run for office
11 whose name currently appear on the March 15 primary,
12 filed with the assumption that if they do not obtain
13 the 40 percent threshold, that they may have to face
14 another -- a second primary. So I guess you've got the
15 person that would've finished first but lack the
16 40 percent and the other candidate who would've
17 finished second also lacking the 40 percent. Do you
18 have an opinion or does the attorney for the state
19 board have an opinion on if there would be any -- and I
20 am not an attorney -- any breach of contract or any
21 concern with if the General Assembly were to cancel the
22 second primary or the runoff from the March 15 race?

23 MS. STRACH: I think you're asking are there
24 any legal problems with doing that? Josh Lawson is our
25 General Counsel and I --

25

1 REP. LEWIS: I would be glad to recognize him.

2 MS. STRACH: -- would definitely defer it to
3 him to answer that.

4 REP. LEWIS: Mr. Lawson.

5 MR. LAWSON: So the facts of the scenario that
6 I understand is if a second primary was taken away, Mr.
7 Chairman, would anyone have a right to bring some
8 action claiming that they were deprived of some legal
9 right they have. There is no constitutional right that
10 an individual has to a second primary. So if the
11 enabling legislation defined the scope of how we were
12 to conduct the elections, I don't foresee what that
13 action would be.

14 REP. LEWIS: Thank you. I don't know if
15 Representative Michaux or Representative Jackson would
16 like to weigh in. Please, sir, you're recognized.

17 REP. MICHAUX: Isn't there a statutory
18 requirement, though?

19 MR. LAWSON: Yes.

20 REP. MICHAUX: If that should happen.

21 MR. LAWSON: Yes.

22 REP. LEWIS: But to be clear and to follow-up
23 on what the representative just asked, a statutory
24 requirement can be changed by an additional statutory
25 requirement. That is what I'm trying -- this is a

26

1 legitimate inquiry that I would appreciate if the
2 committee would weigh in. I want to make sure if this
3 General Assembly elects to cancel the second primary,
4 if we are opening ourselves up to depriving someone of
5 the chance to participate.
6 And, Representative Michaux, you are
7 recognized.
8 REP. MICHAUX: I understand that you may have a
9 constitute -- you may not have a constitutional
10 problem. But on the other hand, because what you've
11 written in the statute and what has been the usual
12 practice, you could have a constitutional problem,
13 couldn't you?
14 MR. LAWSON: I would stick with what I said
15 before which is that since there is no right under the
16 Constitution to a second primary, your right derives
17 from statute which could change.
18 REP. LEWIS: I saw Representative Stam's hand
19 and Representative Jackson's hand. Representative
20 Stam, I'll --
21 REP. STAM: If I could inquire of
22 Representative Michaux, cause I was hear in my youth --
23 REP. LEWIS: Would the gentleman yield?
24 REP. STAM: -- in '89, '90 --
25 REP. LEWIS: I think he yields.

27

1 REP. STAM: -- and he was about along ten
2 years -- weren't you against having runoff primaries
3 back in those days?
4 REP. MICHAUX: Yes, sir, I was. So what has
5 that got to do with the price of tea in China?
6 REP. STAM: Well, can I answer that question?
7 REP. LEWIS: If you know anything about the
8 price of tea in China. Otherwise, if you would like to
9 speak on this particular issue, sure, I'd appreciate
10 it.
11 REP. STAM: Yes, on this particular issue.
12 Maybe one way to solve this is for this special
13 election that we have to hold because -- we may have to
14 hold because of some three-judge federal court. Maybe
15 for that one special election, we just won't do runoff
16 primaries, and you will be even happier than you used
17 to be.
18 REP. LEWIS: And, Ms. Strach, on that point, in
19 years past when the second -- I don't know if I'm
20 calling it right. It is called the second primary; is
21 that correct?
22 MS. STRACH: It is called the second primary.
23 REP. LEWIS: In years past, when the second
24 primary was canceled, was the first primary held with
25 the understanding that it was going to be canceled?

28

1 MS. STRACH: And, Representative Lewis,
2 Chairman Lewis, I'm not sure that I know that answer.
3 I don't know.
4 REP. LEWIS: Representative Michaux, do you
5 know the answer to that?
6 REP. MICHAUX: Having had the experience,
7 Representative Stam, in 1982 of having to go through a
8 second primary for a congressional seat, I knew
9 starting out that that second primary was a possibility
10 because of the statistics that we had received in that
11 district. I came out of that district with 46 percent
12 of the vote. The next highest vote behind me was
13 32 percent, and the next highest behind that was about
14 11 percent, somewhere in that neighborhood. But the
15 threshold at that point -- at that time was 50 percent
16 plus one. So, my 46, 47 percent didn't make a hill of
17 beans, but I knew that there was going to be a second
18 primary because that's what the other candidates were
19 counting on, a second primary being called.
20 REP. LEWIS: Representative Jackson.
21 REP. JACKSON: Thank you, Mr. Chairman. A few
22 follow-ups from earlier.
23 MS. STRACH: Sure.
24 REP. JACKSON: So originally I asked you about
25 would we save \$9.5-10 million, and you explained that

29

1 why it wouldn't necessarily be true. I understand
2 that. But Representative Michaux asked a question
3 about the ballots, and you said, well, I hope not. The
4 counties have already paid to print those and do those
5 things.
6 MS. STRACH: Right.
7 REP. JACKSON: But they're going to have to
8 print new ballots for all places in this state already
9 for 13 new congressional seats. So they would have to
10 reprint ballots of some sort. They might be one pages
11 versus two page, but there will be new ballots
12 required; correct?
13 MS. STRACH: Absolutely, there will be, but it
14 also -- ballot coding is based on the number of races
15 and the number of candidates that are on the ballots.
16 So to do that all over would be significantly higher
17 cost for counties to have to redo and put those
18 candidates back on the ballot again.
19 REP. JACKSON: Great. Okay. Thank you.
20 Another one.
21 REP. LEWIS: Please continue.
22 REP. JACKSON: I believe the Chairman asked you
23 about the date to withdraw your name from a race.
24 MS. STRACH: Right.
25 REP. JACKSON: Okay, and you said the Wednesday

30

1 before filing.

2 MS. STRACH: The three days before, yes.

3 REP. JACKSON: Three days before filing. How

4 about if -- I want to make it very clear, I am not

5 running for Congress, okay. But I have no primary, so

6 I am not on a primary ballot. Would I be able to file

7 for a congressional seat and wait and see if I won

8 before I withdrew my name from the November ballot? Or

9 would I have to withdraw -- if we changed this -- you

10 know what I'm talking -- you understand what I'm

11 saying?

12 MS. STRACH: I absolutely do. Because you have

13 no primary, you are the party's nominee. And so you

14 could not -- you can withdraw as the nominee. You

15 could certainly do that. You would have to do that

16 before absentee ballots go out for the next election,

17 so that we could get you off the ballot. And then it

18 would be up to the party to appoint -- but, yes, you

19 could because you're the nominee. The people that

20 can't withdraw are people that have filed and actually

21 have a primary. They can't withdraw but you could.

22 You're a nominee.

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

24 REP. LEWIS: The gentleman is recognized.

25 REP. JACKSON: So assuming we set a

31

1 congressional primary for May 24-ish, could I wait and

2 see how I did in that congressional primary before

3 deciding if I wanted to remove my name from the

4 November general election?

5 MS. STRACH: No, you could not because that

6 would be dual offices.

7 REP. JACKSON: Okay. Thank you. And then one

8 last question. We recently, I believe, had a Court of

9 Appeals election where we were not able to have a

10 primary, and so we had 19 or 20 candidates on the --

11 MS. STRACH: We certainly did.

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

13 REP. LEWIS: The gentleman is recognized.

14 REP. JACKSON: And I believe that is for an

15 eight-year term.

16 MS. STRACH: Yes.

17 REP. JACKSON: Okay. And what was the

18 winning -- the candidate who won that race, what

19 percentage of the statewide vote did they get?

20 MS. STRACH: I would have to look that up. I'm

21 not sure what the percentage was.

22 REP. JACKSON: Was it around 20 percent or

23 less?

24 MS. STRACH: I don't know. I don't know, but I

25 could certainly get that for you.

32

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

2 Representative Jackson.

3 Rep. Hager.

4 REP. HAGER: Thank you, Mr. Chairman. I spoke

5 with my counsel here to my right. She said about 8-9.5

6 cent per pound for tea in China, by the way.

7 Ms. Strach, thank you for coming here. I appreciate

8 you're knowledge of the subject. You expressed earlier

9 that to add another primary sometime instead of moving

10 all of the primaries wouldn't really cause that much

11 cost because you said most of the counties had already

12 expended a lot dollars already on ballots and those

13 things. Do you have an idea about what percentage they

14 have already expended, approximately, towards the

15 March 15 primary?

16 MS. STRACH: I don't know. I know that they

17 have already -- what they have paid for is they all

18 have all of their ballots. They all have all of their

19 ballot coding. All of that is what I consider probably

20 the most significant cost of the election. They would

21 have the cost of -- they probably have secured all of

22 their sites. We know they have secured their sites for

23 early voting. So I'm not sure how they have paid for

24 those. But the costs they probably -- the only thing

25 they probably haven't paid for is for their poll

33

1 workers?

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

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

4 recognized.

5 REP. HAGER: Thank you. Would it -- now, don't

6 let me put words in your mouth, and I apologize. Would

7 it be safe to say that if you took that and just said

8 we're not going to have that March 15 primary and we

9 moved it somewhere else, it does not save significant

10 dollars to do that.

11 MS. STRACH: If you -- I want to make sure I

12 understand your question. If you do not hold the

13 March 15?

14 REP. HAGER: Correct.

15 MS. STRACH: And you do all of those races

16 over?

17 REP. HAGER: Correct.

18 MS. STRACH: That would be certainly additional

19 costs where they have already expended costs for

20 ballots and coding that would never be able to be used.

21 REP. MICHAUX: Mr. Chair.

22 REP. LEWIS: Yes, sir, Representative.

23 REP. MICHAUX: I thought I understood his

24 question to be that if you moved the primary, if you

25 moved the primary, would there be additional cost from

34

1 March the 15th?

2 REP. HAGER: Mr. Chair, would you like me to

3 restate my question?

4 REP. LEWIS: Please.

5 REP. HAGER: I think Ms. Strach answered it

6 correctly. If you did away with the March 15 primary

7 and you held another primary sometime in the future,

8 and moved everybody to that, my understanding of what

9 you said is due to the already expenses of the ballots,

10 the ballot coding and those things, you would not see

11 significant dollars savings. I think the -- as an

12 illustration, I think a lot of folks would assume that

13 if you did away with the March 15 ballot and you moved

14 it to another date, that you would save all of that

15 money that you were going to spend on March 15. But

16 that doesn't seem to be true because of the ballots and

17 the ballot coding have already been paid for; is that

18 correct?

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

20 been spent.

21 REP. LEWIS: And, Ms. Strach, you may or may

22 not be able to answer this, and if not, I'll just

23 withdraw. It is my understanding -- it is the Chair's

24 understanding that the political parties have submitted

25 plans to the national political parties that

35

1 contemplate their allocation of delegates to the

2 national convention that's based on the March 15

3 primary. Do you have any knowledge as to how a change

4 in that would have impact on the national parties or

5 the ability to participate?

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

7 REP. LEWIS: Members, we're about to stand at

8 ease as we try to digest this and then bring a bill

9 before the committee to address these concerns. Does

10 any other member have anything that we might can --

11 Representative Michaux.

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

13 ease?

14 REP. LEWIS: I think that is an excellent

15 question, Representative Michaux. How long would you

16 like to be at ease?

17 REP. MICHAUX: Until tomorrow morning.

18 REP. LEWIS: The gentleman is certainly

19 dismissed. If you will, sir, the Chair doesn't feel

20 comfortable giving an exact timeframe. To be totally

21 candid with you, we are going to confer -- you can see

22 that we have excellent central staff with us, but none

23 of them are our usual redistricting or election staff

24 because they are tied up working on this bill and

25 waiting for us to respond to them based on some of what

36

1 we've heard. So it may be just a while, but the Chair

2 will give you this commitment. The Chair will come

3 back once we are at ease five or ten minutes or so and

4 give you a more definitive time. But while Ms. Strach

5 is here -- Representative Jackson, did you have an

6 additional inquiry?

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

8 Chair.

9 REP. LEWIS: The gentleman may state his

10 request.

11 REP. JACKSON: Having heard what we've heard

12 and I believe I've got a good idea where we're going, I

13 was wondering if a staff member could be made available

14 to myself so that I can draft some possible amendments

15 once we see a bill, so as not to slow us down later in

16 the evening.

17 REP. LEWIS: Representative Jackson, you have

18 an anxious central staff awaiting to assist you.

19 Members not necessarily on the committee, while

20 Ms. Strach is here, we've made it clear that even

21 members that are not on the committee can participate

22 in the redistricting hearing. Does anybody have an

23 inquiry for Ms. Strach while she's here? If not the

24 committee will be at ease for ten minutes.

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

37

1 REP. STAM: Members of the committee, Chairman

2 Lewis has asked me to advise you that the Speaker is

3 going to put the House in recess until 5:15. And we

4 are still in recess, but it will be a little bit.

5 We'll try to keep you informed.

6 (The House Redistricting Committee recessed at

7 4:46 p.m.)

8 REP. STAM: Members of the committee, Chairman

9 Lewis has asked me to announce that we plan to

10 reconvene at 6:00, take up the bill that should be

11 ready, hot off the press, debate it for about 30

12 minutes, and then be in session at 7:00. So if anybody

13 needs to get something to eat now -- here at 6:00, on

14 the floor at 7:00.

15 (THE PROCEEDINGS IN THIS MATTER RECESSED AT 5:15 P.M.)

16

17

18

19

20

21

22

23

24

25

38

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