

EXHIBIT G

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

3 NORTH CAROLINA STATE)
4 CONFERENCE OF THE NAACP,)
5 et al.,)

6 Plaintiffs,)

7 vs.)

Case No: 1:13-CV-658

8 PATRICK LLOYD MCCRORY, in his)
9 official capacity as the)
10 Governor of North Carolina,)
11 et al.,)

12 Defendants.)

13 _____)
14 LEAGUE OF WOMEN VOTERS OF)
15 NORTH CAROLINA, et al.,)

16 Plaintiffs,)

17 vs.)

Case No: 1:13-CV-660

18 THE STATE OF NORTH CAROLINA,)
19 et al.,)

20 Defendants.)

21 _____)
22 UNITED STATES OF AMERICA,)

23 Plaintiff,)

24 vs.)

Case No: 1:13-CV-861

25 THE STATE OF NORTH CAROLINA,)
et al.,)

Defendants.)

VIDEOTAPED DEPOSITION OF

REPRESENTATIVE RICK GLAZIER

Glazier, Rick 20140620

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VIDEOTAPED DEPOSITION OF
REPRESENTATIVE RICK GLAZER

8:42 A.M.

FRIDAY, JUNE 20, 2014

POYNER SPRUILL
301 FAYETTEVILLE STREET
SUITE 1900
RALEIGH, NORTH CAROLINA

By: Denise Myers Byrd, CSR 8340, RPR, CLR 102409-02

1 08:49 1 And we talked about, again, events I
2 08:49 2 remembered, process I remembered in an effort
3 08:49 3 to begin to get what I thought my declaration
4 08:49 4 ought to look like and have in it.

5 08:49 5 Then there was a third meeting a few
6 08:49 6 weeks later where there was a draft
7 08:49 7 declaration. I had already went through that.
8 08:49 8 I had already received it so I had a chance to
9 08:49 9 read it outside of the meeting. Made changes,
10 08:49 10 final changes, and then there was a signature
11 08:49 11 time for it.

12 08:49 12 Q. And you understand that by submitting the
13 08:49 13 declaration, you waived any legislative
14 08:49 14 immunity with regard to those matters?

15 08:50 15 A. Absolutely.

16 08:50 16 Q. And you're here today voluntarily; is that
17 08:50 17 correct?

18 08:50 18 A. I am.

19 08:50 19 Q. Can you tell me when you were first elected to
20 08:50 20 the State House?

21 08:50 21 A. It was in November of 2002.

22 08:50 22 Q. All right. Can you walk me through when you
23 08:50 23 were subsequently elected thereafter --

24 08:50 24 A. Sure.

25 08:50 25 Q. -- and which district?

1 08:50 1 A. And that was a different -- I have to go back
2 08:50 2 and think about that because we changed a
3 08:50 3 couple of times, redistricting, you know.
4 08:50 4 So I was elected in 2002, then
5 08:50 5 re-elected -- and I believe that was District
6 08:50 6 45, and then re-elected when the change came in
7 08:50 7 November 2004 to 44, re-elected in 2006 to that
8 08:50 8 same district, re-elected in 2008 to that
9 08:50 9 district, re-elected in 2010 to that district,
10 08:50 10 and then redistricting occurred and was elected
11 08:50 11 or re-elected, however you want to frame it, to
12 08:50 12 the new District 45 in 2012.
13 08:50 13 Q. So you were elected in 2002. So you were
14 08:51 14 present for the 2003 long session?
15 08:51 15 A. Yes.
16 08:51 16 Q. And then there were a couple of extra sessions
17 08:51 17 that year?
18 08:51 18 A. There were.
19 08:51 19 Q. Do you recall those generally?
20 08:51 20 A. Not vividly, but I recall enough to remember
21 08:51 21 the extra session, and as I recall, one of
22 08:51 22 those extra sessions was on the redistricting
23 08:51 23 that had to occur again as a result of Judge
24 08:51 24 Jenkins' order I think on redistricting.
25 08:51 25 Q. Right. And have you held any leadership

1 08:52 1 those?

2 08:52 2 Q. No. Thank you.

3 08:52 3 Generally as a chairman of a committee

4 08:52 4 in the North Carolina legislature, what are the

5 08:52 5 general duties of the chairman?

6 08:52 6 A. I think a number of things. One to make sure

7 08:52 7 that when a bill is assigned to your committee,

8 08:53 8 that you read thoroughly through that bill,

9 08:53 9 work with your staff to understand the bill,

10 08:53 10 spend time on your own, I believe, researching

11 08:53 11 and feeling comfortable with that bill, meeting

12 08:53 12 with the bill's sponsors or co-sponsors as is

13 08:53 13 needed.

14 08:53 14 You determine the timing generally

15 08:53 15 absent a directive from the Speaker or

16 08:53 16 leadership of when bills will be heard within

17 08:53 17 your committee, set the schedule for that with

18 08:53 18 your staff, run the meetings, then are in

19 08:53 19 charge of assigning appropriate personnel for

20 08:53 20 House debate on that bill.

21 08:53 21 Q. Absent other direction from the Speaker of the

22 08:53 22 House, for instance, in the House can a

23 08:53 23 committee chair decide that a bill won't be

24 08:53 24 heard that year?

25 08:53 25 A. Yes. Again, that's often not done completely

1 08:53 1 in a vacuum. Usually you have conversation
2 08:53 2 with the Speaker or rules chair, or combination
3 08:53 3 of the two, but committee chairs and depending
4 08:54 4 obviously on how speakers run their
5 08:54 5 organization.
6 08:54 6 But, yes, chairs generally have some
7 08:54 7 fairly significant discretion, particularly if
8 08:54 8 the bill is not a controversial bill or one
9 08:54 9 that would be -- certainly a constitutional
10 08:54 10 bill a chair would not be able to do that
11 08:54 11 without understanding of leadership.
12 08:54 12 Q. So it's fairly normal in the legislature for
13 08:54 13 the chair and the Speaker to control the flow
14 08:54 14 of legislation?
15 08:54 15 A. It is.
16 08:54 16 Q. Some bills get public hearings. When I say
17 08:54 17 public hearing, I mean literally the public can
18 08:54 18 come in and comment.
19 08:54 19 Are you familiar with those?
20 08:54 20 A. I am.
21 08:54 21 Q. Does every bill get a public hearing?
22 08:54 22 A. No.
23 08:54 23 Q. And does every bill -- obviously most bills go
24 08:54 24 through some sort of committee process; is that
25 08:54 25 right?

1 08:56 1 A. Any committee hearing?

2 08:56 2 Q. Yes.

3 08:56 3 A. Yes. Very, very rarely. I don't know that

4 08:56 4 I've ever seen one that got no committee

5 08:56 5 hearing at some point in either body.

6 08:56 6 Q. Right.

7 08:56 7 A. That I don't know that I've ever seen. I

8 08:56 8 suspect there have been a bill or two that

9 08:56 9 might not have gotten a committee hearing, and

10 08:56 10 I don't want to say I can remember one, but

11 08:56 11 it's -- that's certainly possibly true.

12 08:56 12 Now provisions in bills is a different

13 08:56 13 matter obviously.

14 08:56 14 Q. Right. I suppose it's more likely that there

15 08:56 15 are bills that have passed that got maybe one

16 08:56 16 committee hearing but not multiple committee

17 08:56 17 hearings.

18 08:56 18 A. Yes.

19 08:56 19 Q. So it would not be unusual for a bill to get

20 08:57 20 passed that had gone through at least one

21 08:57 21 committee hearing but not multiple committee

22 08:57 22 hearings?

23 08:57 23 A. No, I think that's correct.

24 08:57 24 Q. Can you tell me what a Conference Committee is?

25 08:57 25 A. When the -- one body passes a bill to the

1 08:58 1 go to a Conference Committee.

2 08:58 2 So that there are certainly times that
3 08:58 3 even though they may have different versions,
4 08:58 4 we don't end up in conference because there's
5 08:58 5 an agreement by the bill sponsors and the
6 08:58 6 provisions are not substantially different.

7 08:58 7 Q. Is it possible for one chamber or the other,
8 08:58 8 even in the event of a substantial change, to
9 08:58 9 have talked about it and agree on them and move
10 08:58 10 to concur without a Conference Committee?

11 08:58 11 A. It certainly happens on bills that are not
12 08:59 12 controversial, bills where there's not going to
13 08:59 13 be a large debate on them.

14 08:59 14 Where there is the differences are
15 08:59 15 technical in nature, certainly.

16 08:59 16 Q. So there are instances where substantial
17 08:59 17 changes have been made to bills by one chamber
18 08:59 18 that were then simply concurred in by the other
19 08:59 19 chamber?

20 08:59 20 A. Provided they're not controversial, provided
21 08:59 21 that -- when you say substantial, provided they
22 08:59 22 don't change the tenor of the bill, provided
23 08:59 23 there's not going to be extensive debate
24 08:59 24 because, of course, that defeats the purpose of
25 08:59 25 it.

1 08:59 1 If you're going to have that kind of

2 08:59 2 controversy and debate, you're going to want

3 08:59 3 that to happen in the committee. It obviously

4 08:59 4 means there isn't an agreement, but there are

5 08:59 5 certainly times when there's been long ongoing

6 08:59 6 discussion between the bodies, the changes are

7 08:59 7 more than technical but there's not great

8 08:59 8 controversy about them. The data may have

9 09:00 9 changed, numbers may have changed, dates may

10 09:00 10 have changed, a provision that was in one bill

11 09:00 11 may be coming out now for reasons that the

12 09:00 12 agency that proposed it no longer is in support

13 09:00 13 of it. So I think you have those kinds of

14 09:00 14 circumstances.

15 09:00 15 Q. Have you ever seen a controversial bill --

16 09:00 16 controversial being however you would define

17 09:00 17 that -- that did not get a Conference

18 09:00 18 Committee?

19 09:00 19 A. Where there was disagreement between the House

20 09:00 20 and Senate?

21 09:00 21 Q. Right, where the one chamber made substantial

22 09:00 22 changes to a, quote, controversial bill and the

23 09:00 23 other chamber concurred in those changes

24 09:00 24 without a Conference Committee.

25 09:00 25 A. I suspect that has occurred rarely, but that

1 09:00 1 always would be in my view where there's at
2 09:00 2 least then been a committee hearing on the
3 09:00 3 other -- on the receiving body side so that
4 09:01 4 that -- those changes could be aired out and
5 09:01 5 then that committee may have decided on a
6 09:01 6 committee vote that we are going to concur even
7 09:01 7 though there are substantial changes, and then
8 09:01 8 the committee recommendation will come back to
9 09:01 9 the floor to concur in that bill.

10 09:01 10 So that would be a circumstance where
11 09:01 11 you wouldn't have a Conference Committee but
12 09:01 12 you would have certainly gotten committee
13 09:01 13 recommendation. We don't need a Conference
14 09:01 14 Committee, we know there are big changes but we
15 09:01 15 agreed with them.

16 09:01 16 Q. Do you suspect that has ever happened without
17 09:01 17 it ever being referred to a committee in the
18 09:01 18 final chamber?

19 09:01 19 A. Outside of the budget context -- and if you're
20 09:01 20 talking large important bills, probably not.

21 09:01 21 If you're talking smaller bills, it may.

22 09:01 22 And, again, from a timeframe
23 09:01 23 perspective, remember, my knowledge is 2002 to
24 09:01 24 2012. What happened before I cannot speak to
25 09:01 25 other than anecdotal evidence of what, you

1 09:02 1 know, prior folks have told me.

2 09:02 2 But since 2002 on -- certainly on a

3 09:02 3 constitutional matter or on a matter of

4 09:02 4 significant public policy, I cannot think of a

5 09:02 5 time that a bill has gone on one side, come

6 09:02 6 back, there has been substantial changes,

7 09:02 7 there's no concurrence -- I mean, there's no

8 09:02 8 Conference Committee, there's no committee

9 09:02 9 discussion of it and it's simply put on the

10 09:02 10 calendar.

11 09:02 11 Now, that will happen occasionally, as

12 09:02 12 I said, where there's technical, where there's

13 09:02 13 agreement, where there's not substantial

14 09:02 14 changes, and on occasion even where there are

15 09:02 15 but where there's not going to be great

16 09:02 16 discussion about it, it's not crucial public

17 09:02 17 policy, you know, that will happen,

18 09:02 18 particularly if you get at the end of session

19 09:02 19 and you're trying to expedite matters, but on

20 09:02 20 something that has an overriding public

21 09:03 21 importance or constitutional implications, no.

22 09:03 22 Q. What about budget bills, do they typically come

23 09:03 23 back for a concurrence vote?

24 09:03 24 A. They typically come back often and there's

25 09:03 25 never agreement between the House and the

1 09:04 1 Q. So, in other words, it's not a violation of the

2 09:04 2 rules for a member in the final chamber

3 09:04 3 considering the bill to make a motion to concur

4 09:04 4 and that chamber to vote to concur?

5 09:04 5 A. No, it's not a formal violation of the rules.

6 09:04 6 Q. And it's not a violation of the rule regardless

7 09:04 7 whether it's a, quote, controversial bill or

8 09:04 8 not?

9 09:04 9 A. It's not a violation of the rules. Violation

10 09:04 10 of the decorum, violation of the protocol of

11 09:04 11 the institution, yes, but violation formally of

12 09:04 12 the rules, no.

13 09:04 13 Q. Are you familiar with -- when I use the words

14 09:04 14 "gut and amend," does that sound familiar to

15 09:04 15 you --

16 09:04 16 A. Certainly.

17 09:04 17 Q. -- with respect to the legislative process?

18 09:04 18 What does that mean?

19 09:04 19 A. To gut a bill or strip a bill -- well, it can

20 09:05 20 have two different implications. One is a bill

21 09:05 21 is passed one chamber and is sitting over in

22 09:05 22 the other.

23 09:05 23 So if you're going to strip a bill, for

24 09:05 24 example, which is happening now in short

25 09:05 25 session, and often does in short session, and

1 09:05 1 that means you get consent of the person or the
2 09:05 2 people who are the sponsors of that bill. They
3 09:05 3 say they no longer need that bill in that
4 09:05 4 particular chamber, perhaps because a companion
5 09:05 5 bill has already become law.

6 09:05 6 And so the party, the legislator who's
7 09:05 7 seeking to put an entire new set of information
8 09:05 8 in that bill, a new bill, if you will, they
9 09:05 9 strip out the old content, put in the new
10 09:05 10 contents, it's then heard in that chamber that
11 09:05 11 it exists in and then comes back to the other
12 09:05 12 chamber for concurrence or to force it into
13 09:05 13 conference.

14 09:05 14 Q. And is that a violation of the rules of --
15 09:05 15 under any of the rules that you operated under
16 09:05 16 while you were in the legislature?

17 09:05 17 A. No.

18 09:05 18 Q. Is it fairly common for that to happen?

19 09:06 19 A. It is common in the short session for that to
20 09:06 20 happen. Less common in the long session, but
21 09:06 21 certainly common in the short session just
22 09:06 22 given the nature of you've already passed one
23 09:06 23 side or the other.

24 09:06 24 And as I said, there's certain sort of
25 09:06 25 protocol with it, but, yeah, I would say in the

1 09:06 1 short session it's fairly common.

2 09:06 2 Q. Particularly -- let's focus on the short

3 09:06 3 session, and by the short session, I mean the

4 09:06 4 legislative session in North Carolina typically

5 09:06 5 occurs in the even number years --

6 09:06 6 A. Uh-huh.

7 09:06 7 Q. -- the one that you're in currently?

8 09:06 8 A. That's correct.

9 09:06 9 Q. Is it -- is it common for bills to be

10 09:06 10 approved -- given final approval on the last

11 09:06 11 day of session or near the last day of session?

12 09:07 12 A. I think any time -- yes. I think any time you

13 09:07 13 have a deadline, that deadline day is always

14 09:07 14 going to be -- or the day or two before -- more

15 09:07 15 active than weeks before.

16 09:07 16 Q. Right. So it would be fair to say that it's

17 09:07 17 fairly common for a rush of bills to be

18 09:07 18 approved at the very end of session?

19 09:07 19 A. I think that's accurate.

20 09:07 20 Q. We talked about the Conference Committee a few

21 09:07 21 minutes ago.

22 09:07 22 A. Right.

23 09:07 23 Q. Is it correct that the -- when the Conference

24 09:07 24 Committee meets on any bill -- and correct me

25 09:07 25 if I'm wrong on any of this -- it's in secret?

1 09:08 1 Q. But I assume that there's been bills that you

2 09:08 2 might consider controversial in the past that

3 09:08 3 you've been there that had Conference

4 09:08 4 Committees that were private?

5 09:08 5 A. Yes.

6 09:08 6 Q. So when the -- assuming there's a Conference

7 09:08 7 Committee that's met in private, the process is

8 09:08 8 that they produce a conference report that then

9 09:09 9 both houses or both chambers vote on; is that

10 09:09 10 correct?

11 09:09 11 A. That's correct.

12 09:09 12 Q. And is that generally an up-or-down vote on the

13 09:09 13 report?

14 09:09 14 A. It is.

15 09:09 15 Q. So in that sense, it's somewhat similar to the

16 09:09 16 motion for -- to concur when you have something

17 09:09 17 that comes back from the other chamber?

18 09:09 18 A. Yes, in the sense that that's either a

19 09:09 19 yes-or-no. This is an up-or-down vote.

20 09:09 20 There's no amendments of the conference report.

21 09:09 21 Q. And the debate in the chamber on the conference

22 09:09 22 report is obviously open to the public?

23 09:09 23 A. Yes.

24 09:09 24 Q. And the debate on the motion to concur is

25 09:09 25 obviously open to the public as it occurs in

1 09:10 1 document.

2 09:10 2 Q. Do you think it's important to have that

3 09:10 3 ability to the keep it confidential in the

4 09:10 4 drafting process?

5 09:10 5 A. Between the legislative drafter and the

6 09:11 6 legislator, yes, I do.

7 09:11 7 Q. So the drafting of the bill is not a public

8 09:11 8 process?

9 09:11 9 A. Can be in some cases. Obvious it is not.

10 09:11 10 Q. Would you consider a redistricting bill

11 09:11 11 generally to be a controversial bill?

12 09:11 12 A. I would think most times that's probably

13 09:11 13 accurate.

14 09:11 14 Q. Would you consider a redistricting bill to be a

15 09:11 15 bill of great importance to the state and the

16 09:11 16 people?

17 09:11 17 A. I would.

18 09:11 18 Q. Representative Glazier, the only exhibit I am

19 09:11 19 going to have today is your declaration.

20 09:11 20 A. Alright.

21 09:11 21 Q. I didn't bring but a few copies.

22 09:11 22 MR. BROOK: I have some as well.

23 09:12 23 MR. STRACH: If you will mark this as

24 09:12 24 next in order.

25 09:12 25 THE REPORTER: We're starting at 150.

1 09:15 1 A. Uh-huh.

2 09:15 2 Q. When you say bipartisan support, what exactly
3 09:15 3 do you mean by that?

4 09:15 4 A. I mean the Republicans as well as Democrats
5 09:15 5 were voting for the bill on the second and
6 09:15 6 third readings in both chambers.

7 09:15 7 Q. Do you consider it a bipartisan even if only a
8 09:15 8 few Republicans vote on a bill?

9 09:15 9 A. Yeah, I mean, I think there is bipartisan
10 09:15 10 support. The level of bipartisan support then
11 09:15 11 has to be determined about basically the
12 09:15 12 nature.

13 09:15 13 Some of these had almost uniform
14 09:15 14 support. Others did not. Others were more
15 09:16 15 mixed, but, yeah, I think when you have someone
16 09:16 16 from both parties who are agreeing it's
17 09:16 17 generally considered bipartisan.

18 09:16 18 Q. And just -- it just occurred to me I probably

19 09:16 19 need to lay some context for this transcript.

20 09:16 20 You are a Democrat, right?

21 09:16 21 A. Yes.

22 09:16 22 Q. And from 2002 through 2010 the Democrats were

23 09:16 23 the majority caucus in the legislature?

24 09:16 24 A. They were. And I should probably also, if I

25 09:16 25 could, give you context.

1 09:22 1 County, participation among African Americans
2 09:22 2 eligible to vote jumped from 37.8 percent in
3 09:22 3 2000 to 55.4 percent in 2004, and you appeared
4 09:22 4 to attribute that to what you referred to as
5 09:22 5 the 2001 legislative measures.

6 09:22 6 Is that correct?

7 09:22 7 A. Certainly were a substantial impact on it,
8 09:23 8 yeah.

9 09:23 9 Q. Where did you obtain those numbers?

10 09:23 10 A. Those numbers are from Democracy North Carolina
11 09:23 11 data that I know was on their website. I may
12 09:23 12 have hard copies as well of it that were in my
13 09:23 13 files, but Democracy North Carolina is the
14 09:23 14 source.

15 09:23 15 Q. What is the source for your assertion that it
16 09:23 16 was the legislative measures that was
17 09:23 17 responsible for the increase in participation?

18 09:23 18 A. Well, there was no question anecdotally that if
19 09:23 19 you were talking with folks in that election
20 09:23 20 cycle that early vote was substantially
21 09:23 21 important. You could see that by working the
22 09:23 22 early vote lines, talking to folks in the early
23 09:23 23 vote cycles, which I did, and I think it was
24 09:23 24 rather clear that that was a pretty significant
25 09:23 25 factor in that increased output.

1 09:23 1 They're both presidential years, so it

2 09:24 2 wasn't an issue of presidential,

3 09:24 3 non-presidential, but it really was an issue of

4 09:24 4 access and availability.

5 09:24 5 Q. And just to be clear, you're basing that on

6 09:24 6 anecdotal evidence?

7 09:24 7 A. For me. I think I indicated I was trying to

8 09:24 8 limit it to my knowledge in Cumberland county.

9 09:24 9 Q. But even in Cumberland county, your knowledge

10 09:24 10 regarding the reasons for the increase based on

11 09:24 11 anecdotal conversations?

12 09:24 12 A. Sure. Sure.

13 09:24 13 Q. In paragraph 13, there's a reference to Senate

14 09:24 14 Bill 133 --

15 09:24 15 A. Right.

16 09:24 16 Q. -- which was what I would call the

17 09:24 17 out-of-precinct bill.

18 09:24 18 A. Right.

19 09:24 19 Q. And I assume you would agree with me that that

20 09:24 20 was a controversial bill at the time?

21 09:24 21 A. It was.

22 09:24 22 Q. You mention in the last sentence of that

23 09:24 23 paragraph that you recall that the bill

24 09:24 24 specifically noted that a disproportionately

25 09:25 25 high percentage of voters who cast such ballots

1 09:25 1 in November 2004 were African American.

2 09:25 2 A. Right.

3 09:25 3 Q. Do you recall what the legislature relied on to

4 09:25 4 make that finding?

5 09:25 5 A. I know that that bill had a substantial

6 09:25 6 committee process. I was not on the Elections

7 09:25 7 Committee so I do not recall what the data was

8 09:25 8 that was submitted for the legislative finding.

9 09:25 9 I know that it was certainly part of

10 09:25 10 the process to put into the record as much

11 09:25 11 information as necessary to support any

12 09:25 12 legislative findings, but since I didn't serve

13 09:25 13 on that committee, I cannot tell you without

14 09:25 14 looking at the minutes of that committee.

15 09:25 15 Q. Do you recall sitting here today looking at any

16 09:25 16 specific data that supported that assertion?

17 09:25 17 A. Here?

18 09:25 18 Q. At the time.

19 09:25 19 A. Oh, I'm sorry. I cannot tell you that I recall

20 09:26 20 at that time when I was voting on that bill

21 09:26 21 what sources I looked at. I'd have to pull

22 09:26 22 that bill file out, and I try to keep bill

23 09:26 23 files on most bills. So -- and I didn't

24 09:26 24 attempt to do that in preparation for this

25 09:26 25 deposition.

1 09:26 1 So the answer is I cannot tell you what

2 09:26 2 specific data or studies I looked at on that.

3 09:26 3 What I can tell you is that I'm pretty

4 09:26 4 meticulous and if there was nothing presented

5 09:26 5 or nothing available, I would have questioned

6 09:26 6 that.

7 09:26 7 Q. Sitting here today, can you say one way or the

8 09:26 8 other whether the data that was relied on was

9 09:26 9 reliability?

10 09:26 10 A. There would be no way for me to do that without

11 09:26 11 looking at what was relied on at the time for

12 09:26 12 the legislative finding.

13 09:26 13 Q. If it turned out that the data that was relied

14 09:26 14 on for that finding omitted data from four of

15 09:27 15 the largest counties in North Carolina, would

16 09:27 16 you have been comfortable relying on that data

17 09:27 17 at that time?

18 09:27 18 A. I would have had concerns.

19 09:27 19 MR. BROOK: Objection as to foundation.

20 09:27 20 You can go ahead.

21 09:27 21 THE WITNESS: I would have concerns in

22 09:27 22 relying on any data that omits large segments

23 09:27 23 of the population from those numbers.

24 09:27 24 BY MR. STRACH:

25 09:27 25 Q. In paragraph 17, the first sentence says "Early

1 09:27 1 voting, out-of-precinct voting, same-day

2 09:27 2 registration, pre-registration for 16- and

3 09:27 3 17-year-olds and increased access to absentee

4 09:27 4 voting all increased voter participation,"

5 09:28 5 correct?

6 09:28 6 A. Yes.

7 09:28 7 Q. Can you tell me what you relied on to make that

8 09:28 8 statement?

9 09:28 9 A. Sure. And I'm assuming that we're talking

10 09:28 10 about the timeframe of -- well, let me ask:

11 09:28 11 What timeframe do you want me to

12 09:28 12 respond to?

13 09:28 13 Q. That's a good question.

14 09:28 14 What timeframe were you referring to

15 09:28 15 when you wrote that?

16 09:28 16 A. It looks like it was tied into the 2012, what

17 09:28 17 the paragraph is saying. I just wanted to make

18 09:28 18 sure we're in the same context.

19 09:28 19 Q. Okay.

20 09:28 20 A. But as a general rule for that election as well

21 09:28 21 as for candor 2008 there wasn't any doubt in my

22 09:28 22 mind based on anecdotal evidence from my

23 09:28 23 county, based on information that I had

24 09:28 24 received as a legislator from a number of

25 09:28 25 organizations, Democracy North Carolina being

1 09:28 1 one of them, looking at national data from the
2 09:28 2 Brennan Center that early voting -- certainly
3 09:28 3 the combination of early voting,
4 09:28 4 out-of-precinct voting, same-day registration
5 09:29 5 and pre-registration and increased absence to
6 09:29 6 absentee voting all increased voter
7 09:29 7 participation, and I'll take them one at a time
8 09:29 8 if you want me to.
9 09:29 9 Q. Sure.
10 09:29 10 A. So increased absence to increased access to
11 09:29 11 absentee voting. My district -- both my first
12 09:29 12 district, second district and third district
13 09:29 13 all have substantial military population in
14 09:29 14 them. One of the concerns I've heard
15 09:29 15 repeatedly was -- which led me to be involved
16 09:29 16 in the process was to increase their access
17 09:29 17 both in terms of earlier time availability for
18 09:29 18 them to get the ballot, more time for them to
19 09:29 19 fill it out, trying to get rid of the witness
20 09:29 20 requirements to make it easier for soldiers
21 09:29 21 that were being deployed in large numbers
22 09:29 22 during that decade, to have better access on
23 09:29 23 the front to be able to vote.
24 09:29 24 I thought that was crucial. Regardless
25 09:29 25 of how anybody votes, access is the critical

1 09:29 1 thing. And so there wasn't any question that
2 09:29 2 several bills, including the one in 2011, were
3 09:30 3 designed to give them that increased access and
4 09:30 4 I think did that.

5 09:30 5 And I certainly had people write me, I
6 09:30 6 certainly had people who came back who were
7 09:30 7 friends who were in Afghanistan or Iraq and
8 09:30 8 came back and said "We really appreciate what
9 09:30 9 you did because I wouldn't have been able to
10 09:30 10 vote had prior restrictions been in place."

11 09:30 11 So I know from fairly extensive
12 09:30 12 anecdotal work on that in my district.

13 09:30 13 For 16- and 17-year-olds, I'm certainly
14 09:30 14 aware of the increased numbers of them
15 09:30 15 registering and the programs that developed
16 09:30 16 after that bill in a number of high schools in
17 09:30 17 Fayetteville, and I've heard similar data
18 09:30 18 across the state, but for me it was seeing it
19 09:30 19 in high schools in Cumberland were 16- and
20 09:30 20 17-year-old programs were deliberately set up
21 09:30 21 in schools to provide that opportunity which
22 09:30 22 certainly didn't exist before that.

23 09:30 23 Same-day registration is hugely
24 09:30 24 important in a district like mine that is both
25 09:30 25 transient, mobile and has a fairly high

1 09:31 1 military and high poverty population, because

2 09:31 2 those are the folks who generally need access

3 09:31 3 to that and where they have that capacity.

4 09:31 4 And I can tell you in fielding calls in

5 09:31 5 2008 and the calls in 2012 particularly that

6 09:31 6 same-day registration issues became very

7 09:31 7 important, and that particularly becomes true

8 09:31 8 because of the mobility issues that we were

9 09:31 9 talking about and the deploying and redeploying

10 09:31 10 times for military.

11 09:31 11 Out-of-precinct voting is stunningly

12 09:31 12 important. I noticed it firsthand because we

13 09:31 13 had several problems in Fayetteville, in

14 09:31 14 Cumberland County on this. Because of the

15 09:31 15 increase in population in my county and the

16 09:31 16 changes in precincts, division of them -- for

17 09:32 17 example, moving to Precinct 13A and 13B instead

18 09:32 18 of 13 would be an idea -- that there were a lot

19 09:32 19 of people who would go to their original

20 09:32 20 precinct only to find they've been sent to

21 09:32 21 another one but because they moved, they never

22 09:32 22 gotten the board of elections notice of it.

23 09:32 23 So I would be standing at the other

24 09:32 24 precinct, they'd be told they couldn't go or

25 09:32 25 that was the wrong precinct, and so we were

1 09:32 1 near the end of the day and we would tell them
2 09:32 2 you're not going to get back to your other
3 09:32 3 precinct in time, go ahead and cast your
4 09:32 4 provisional ballot here because you're not
5 09:32 5 going to be able to get to the other precinct,
6 09:32 6 and that became an issue.

7 09:32 7 The second part of that that became an
8 09:32 8 issue was in counties like mine where you have
9 09:32 9 early voting sites in one of several designated
10 09:32 10 spots in that area but it's not normally an
11 09:32 11 election-day precinct, and so you had people
12 09:32 12 going to early voting spots where there wasn't
13 09:32 13 one and then not being able to get in time to
14 09:32 14 their regular precinct and so they had to vote
15 09:33 15 somewhere out of precinct just because the end
16 09:33 16 of the day was happening. So you have a lot of
17 09:33 17 that going on.

18 09:33 18 And it's equally true, again, when you
19 09:33 19 have mobile and deployed populations, that
20 09:33 20 they're simply often not going to get notice in
21 09:33 21 time of what their new precinct is, and so they
22 09:33 22 try to go to what looks like their closest one
23 09:33 23 to home.

24 09:33 24 That is a major problem in my
25 09:33 25 particular county, and I suspect in a number of

1 09:33 1 urban counties, but mine is exacerbated because

2 09:33 2 of the military, and we, I think, talked about

3 09:33 3 the early voting already.

4 09:33 4 Q. With regard to the out-of-precinct folks?

5 09:33 5 A. Right.

6 09:33 6 Q. Were you referencing people who had -- who had

7 09:33 7 moved from a precinct to another? Who exactly

8 09:33 8 who are you referencing?

9 09:33 9 A. No. People where they may not have moved but

10 09:33 10 they -- you have several different

11 09:33 11 circumstances.

12 09:34 12 One, you have circumstances where

13 09:34 13 people haven't moved but the precinct was split

14 09:34 14 and they may not have gotten notice of their

15 09:34 15 split precinct in time, and that happened, and

16 09:34 16 we happen to have, because of the growth of the

17 09:34 17 county, quite a bit of split precinct action in

18 09:34 18 the last couple of election cycles.

19 09:34 19 As a result of that, you have people

20 09:34 20 going perhaps where they voted for the last

21 09:34 21 20 years only to find that they've been shifted

22 09:34 22 to another place and it may be they're coming

23 09:34 23 after work at 5:30 or 6 o'clock on election day

24 09:34 24 only to know that they can't get over to the

25 09:34 25 other one or weren't going to head over to the

1 09:37 1 the fact that they didn't get to the right
2 09:37 2 precinct or they were out of precinct.

3 09:37 3 I think when you don't accommodate
4 09:37 4 those that the ballot is in front of them and
5 09:37 5 where they're eligible, I think it has
6 09:37 6 constitutional overtones -- no longer just a
7 09:37 7 policy.

8 09:37 8 Q. So do you think a voter should be allowed to
9 09:38 9 show up at any precinct they want and have
10 09:38 10 their ballot counted for the races that they're
11 09:38 11 eligible?

12 09:38 12 A. No. I think that you have circumstances,
13 09:38 13 though, where voters, because of the nature of
14 09:38 14 the exigency of election day, are unable to get
15 09:38 15 to their precinct, got to the wrong precinct,
16 09:38 16 didn't get the information, maybe a myriad of
17 09:38 17 circumstances, and I think there we have an
18 09:38 18 obligation to accept the ballot provisionally
19 09:38 19 and then an obligation to check on that ballot,
20 09:38 20 which is the purpose, right, to make sure that
21 09:38 21 this person really was eligible to vote.
22 09:38 22 That's a legitimate state function and to
23 09:38 23 determine what races they were eligible to vote
24 09:38 24 in that they cast a ballot on.

25 09:38 25 Once we make that decision, once the

1 09:40 1 Q. In paragraph 18 you mention that from your
2 09:41 2 tenure in the House, the legislative process
3 09:41 3 that led to the passage of HB 589 is the most
4 09:41 4 egregious example of legislating on a matter of
5 09:41 5 great importance without meaningfully and
6 09:41 6 transparently vetting the provisions adopted.

7 09:41 7 Is that your statement?

8 09:41 8 A. It is my statement.

9 09:41 9 Q. Were you in the legislature -- you were in the
10 09:41 10 legislature in 2003 when the 2003 redistricting
11 09:41 11 plan was passed --

12 09:41 12 A. I was. I was.

13 09:41 13 Q. -- is that correct?

14 09:41 14 A. In the special session.

15 09:41 15 Q. Right, in the special session.

16 09:41 16 Do you recall that was in November of
17 09:41 17 that year?

18 09:41 18 A. I do.

19 09:41 19 Q. And do you recall it was a very short session?

20 09:41 20 A. Several days at the most, if I remember, yes.

21 09:41 21 Q. Day and a half, maybe?

22 09:41 22 A. (Witness nodding head up and down.)

23 09:41 23 Q. What input did you have on that particular

24 09:41 24 redistricting plan?

25 09:41 25 A. Well, apparently not a lot since the Democratic

1 09:41 1 speaker tried to take me out of my district,

2 09:42 2 so...

3 09:42 3 Q. Okay. Tell me about that.

4 09:42 4 A. Yeah, I'd be glad to.

5 09:42 5 So as you know, there was a great deal

6 09:42 6 of effort that went into the original

7 09:42 7 redistricting plan that got struck down by the

8 09:42 8 court and so redistricting was ordered.

9 09:42 9 There was a lot of planning and time

10 09:42 10 that went into the preparation for the

11 09:42 11 redistricting by both caucuses, not to the

12 09:42 12 extent I think we do it today, but certainly

13 09:42 13 maps were drawn and people were given an

14 09:42 14 opportunity to sort of input before we ever got

15 09:42 15 into that special session, I suspect, since I

16 09:42 16 was a junior guy at that point that more senior

17 09:42 17 people had more input, but I recall certainly

18 09:42 18 being called -- I think the meeting with the

19 09:42 19 speaker and with map drawers and a host of

20 09:42 20 other folks to look at proposed -- a proposed

21 09:43 21 map of our districts. I mean, I think it

22 09:43 22 probably had every district there, but I was

23 09:43 23 more concerned with Cumberland.

24 09:43 24 There was initially a proposal, for

25 09:43 25 example, to have me pitted against another

1 09:43 1 first-term representative in a new district

2 09:43 2 that had to be carved out, and that was

3 09:43 3 Representative Dixon.

4 09:43 4 I and she both objected to that since

5 09:43 5 we represent common interests in the same

6 09:43 6 arena, and there was then reconsideration of

7 09:43 7 that by the map drawers and the seniors who

8 09:43 8 were working on it in the -- in the

9 09:43 9 Redistricting Committee, which I recall may

10 09:43 10 have been Representative Alexander,

11 09:43 11 Representative Hackney was involved, there were

12 09:43 12 others.

13 09:43 13 And I was called back for a second look

14 09:43 14 where they had then given Representative Dixon

15 09:43 15 a different district and had pitted me against

16 09:44 16 Representative Warner, who was an eight-term

17 09:44 17 representative, with a very -- a different

18 09:44 18 shift to the districts, but someone was going

19 09:44 19 to have to be paired in our area by the nature

20 09:44 20 of the population, so that wasn't so much the

21 09:44 21 issue.

22 09:44 22 And I consented to that general map. I

23 09:44 23 preferred that -- thought it was more

24 09:44 24 appropriate that two first-termers not be put

25 09:44 25 against each other given the nature of the

1 09:44 1 district.

2 09:44 2 And then there were more map drawing

3 09:44 3 that occurred when I left. I was called back

4 09:44 4 later that evening and the final parameters of

5 09:44 5 that district were shown to me. I objected to

6 09:44 6 it because of the nature of how it was drawn.

7 09:44 7 Those objections were overruled and that's what

8 09:44 8 emerged the next morning. So that's the

9 09:44 9 process from my perspective.

10 09:44 10 Then I think the final maps were

11 09:44 11 produced. My recollection is they were put

12 09:45 12 online early that morning. I think that the

13 09:45 13 bill was then drafted with the parameters of

14 09:45 14 that, and my recollection is that debate

15 09:45 15 occurred on that sometime late in the day, but

16 09:45 16 I could be wrong by a day.

17 09:45 17 Q. So you ultimately got what you call

18 09:45 18 double-bunked, right? Is that the proper term

19 09:45 19 for that?

20 09:45 20 A. Yes. I would probably use a different verb but

21 09:45 21 it would probably be inappropriate here.

22 09:45 22 Q. I totally understand.

23 09:45 23 So you were double-bunked with Alex

24 09:45 24 Warner?

25 09:45 25 A. Yes.

1 09:45 1 Q. And you ultimately won that election, though,

2 09:45 2 correct?

3 09:45 3 A. I did.

4 09:45 4 Q. Good for you. Do you know -- did you know

5 09:45 5 whether there was any personal relationship

6 09:45 6 between the speaker and Alex Warner that

7 09:45 7 factored into that?

8 09:45 8 A. I suspect that it did. I have no direct

9 09:45 9 knowledge.

10 09:45 10 Q. And do you know where they were drawn, these

11 09:45 11 maps, where this was taking place?

12 09:45 12 A. That was a long time ago. I honestly cannot

13 09:46 13 recall. Boy, I just don't remember that.

14 09:46 14 I remember the conferences, and I think

15 09:46 15 there were different -- because general -- most

16 09:46 16 of this was done off site. I mean, the final

17 09:46 17 legislative drafting was on site, but each

18 09:46 18 party had its sort of mapping in different

19 09:46 19 places, and I cannot tell you where the

20 09:46 20 meetings occurred. I just don't remember.

21 09:46 21 Q. Right. I assume, based on what you described,

22 09:46 22 you weren't in on many of those meetings.

23 09:46 23 A. Yeah. I was in on the ones that I described

24 09:46 24 and there were others and I certainly were not

25 09:46 25 involved in those.

1 09:46 1 Q. And you weren't actually asked to sit down at
2 09:46 2 the computer and draw your district?

3 09:46 3 A. Yes and no. I mean, we were certainly asked
4 09:46 4 and given access to that capacity before that
5 09:46 5 session started to look at options, to look at
6 09:46 6 what existed, to look at the data, to give some
7 09:47 7 indication of what we thought our area ought to
8 09:47 8 look like. That occurred. That was
9 09:47 9 pre-establishment of the session, but once it
10 09:47 10 was clear we were going to have that special
11 09:47 11 session. Now, again, how many weeks out that
12 09:47 12 was, I don't remember.

13 09:47 13 Q. So the districts themselves, prior to being
14 09:47 14 introduced to the legislature in the special
15 09:47 15 session, were drawn in private?

16 09:47 16 A. Yes, for the most part. Again, what I don't
17 09:47 17 recall is whether there were options that were
18 09:47 18 put out there ahead of time for comment by
19 09:47 19 legislators on the whole, and I certainly don't
20 09:47 20 know what each party did, but I know when it
21 09:47 21 came down to the final drawing, this is what I
22 09:47 22 remember. Before that, not so clear about how
23 09:47 23 many times we met.

24 09:48 24 I am clear we had the option to input.

25 09:48 25 I am clear we had the option to look at the

1 09:48 1 data and maps that were being considered as the

2 09:48 2 process went along, and I'm certainly clear I

3 09:48 3 had the option to input pretty considerably at

4 09:48 4 the end because they changed districts twice.

5 09:48 5 Q. But at the end of the day it was the speaker

6 09:48 6 that was going to control where the lines of

7 09:48 7 the districts went?

8 09:48 8 A. I think at the end of the day, that's right.

9 09:48 9 Q. And the maps themselves were not released to

10 09:48 10 the public prior to the start of the session;

11 09:48 11 is that right?

12 09:48 12 A. I do not think so, yeah.

13 09:48 13 Q. I've looked at the history of the bill and I'll

14 09:48 14 just want to see what you recall about it.

15 09:48 15 Based on the research that I've done,

16 09:48 16 this was House Bill 3 --

17 09:48 17 A. That makes sense.

18 09:48 18 Q. -- at the time.

19 09:48 19 And it was filed on November 24th which

20 09:49 20 was on the first day of the session. Does that

21 09:49 21 sound right?

22 09:49 22 A. That sounds right.

23 09:49 23 Q. And it was calendared for immediate

24 09:49 24 consideration. Do you know what that means?

25 09:49 25 A. I do.

1 09:49 1 A. I'm assuming I was, but I'd have to look at the
2 09:49 2 attendance record, but I was certainly there
3 09:50 3 for the vote. I believe I was there for the
4 09:50 4 full debate.

5 09:50 5 Q. And you voted for the plan on each occasion
6 09:50 6 that you had an opportunity to vote, correct?

7 09:50 7 A. I did.

8 09:50 8 Q. And according to the research I've done, the

9 09:50 9 bill passed the House and went over to the

10 09:50 10 Senate that same day.

11 09:50 11 Does that sound correct?

12 09:50 12 A. Probably right.

13 09:50 13 Q. And while it was in the Senate, it underwent

14 09:50 14 some changes. Do you recall what those changes

15 09:50 15 were?

16 09:50 16 A. I have no recollection at all about what

17 09:50 17 happened at the Senate on that bill.

18 09:50 18 Q. Do you recall the addition of some

19 09:50 19 redistricting provisions such as the creation

20 09:50 20 of a three-judge panel for redistricting cases

21 09:50 21 that were added?

22 09:50 22 A. That -- I remember that being added, but how

23 09:50 23 and when I can't tell you or where the

24 09:50 24 discussion was I wouldn't be able to tell you

25 09:50 25 without looking at the file to tell you that.

1 09:50 1 Q. Would you consider the addition of a
2 09:50 2 three-judge redistricting panel to be a
3 09:50 3 substantial change to a bill that went --
4 09:50 4 started in one house without it and went to
5 09:51 5 another chamber and it was added?
6 09:51 6 A. Yeah, I would consider that to be a significant
7 09:51 7 process change.
8 09:51 8 Q. Okay. And again, according to the research
9 09:51 9 I've done, the bill passed the Senate and was
10 09:51 10 sent back to the House.
11 09:51 11 Do you recall if a Conference Committee
12 09:51 12 was put together for that particular bill?
13 09:51 13 A. I have no independent recollection. I just
14 09:51 14 didn't do any research on that particular bill
15 09:51 15 so I can't tell you.
16 09:51 16 Q. Would it surprise you if you were to learn that
17 09:51 17 it came back for a concurrent vote in the
18 09:51 18 House?
19 09:51 19 A. Probably would not surprise me given the way
20 09:51 20 redistricting is handled.
21 09:51 21 Q. In your time in the legislature, has the House
22 09:51 22 of Representatives ever gone into a committee
23 09:51 23 as a whole?
24 09:52 24 A. I do not think so. I don't want to rule out
25 09:52 25 that it happened once only because there's some

1 09:52 1 vague recollection that I have, but I don't

2 09:52 2 think so, and that may have just been a motion

3 09:52 3 to consider that. So my answer is a guarded

4 09:52 4 no.

5 09:52 5 Q. Right, right. That's fine.

6 09:52 6 So at least in your experience it would

7 09:52 7 be unusual for the House to go into a Committee

8 09:52 8 of the Whole?

9 09:52 9 A. It is, and it's designed to be an unusual rule.

10 09:52 10 It's meant for exceptional circumstance.

11 09:52 11 Q. Should the House have gone into the Committee

12 09:52 12 of the Whole with respect to the 2003

13 09:52 13 redistricting plan?

14 09:52 14 A. I don't know if there was any motion to go into

15 09:52 15 the whole.

16 09:52 16 Q. Do you think from a process perspective it

17 09:52 17 would have been better to go into the Committee

18 09:52 18 of the Whole?

19 09:52 19 A. I think redistricting is its own creature.

20 09:52 20 Because there are so many issues at stake and

21 09:52 21 because the process generally in that

22 09:52 22 particular timeframe in that particular case,

23 09:53 23 number one, we were on a second redistricting

24 09:53 24 which was done very differently, as you know,

25 09:53 25 as you're suggesting than the first because the

1 09:53 1 court struck down the first redistricting.
2 09:53 2 So that there had been exhaustive data
3 09:53 3 out, exhaustive numbers, large numbers of
4 09:53 4 capacity to input privately about the
5 09:53 5 provisions that were going to be in that bill.
6 09:53 6 As I suggested to you, I got to change
7 09:53 7 literally who I was facing as my opponent so
8 09:53 8 there clearly was a lot of input. Still wasn't
9 09:53 9 happy with the final outcome, but I certainly
10 09:53 10 can't complain that I wasn't listened to or
11 09:53 11 that I didn't know what was out there or that
12 09:53 12 it was sprung on me without any input. Those
13 09:53 13 things didn't happen.
14 09:53 14 So I think you had with this bill an
15 09:53 15 awful lot of, number one, pre-session access to
16 09:53 16 all the things that were going into it;
17 09:53 17 Number two, because the redistricting
18 09:53 18 process itself, I think wrongly, is a highly
19 09:54 19 politicized bill and environment and it creates
20 09:54 20 its own sort of momentum in a very different
21 09:54 21 way than any other bill;
22 09:54 22 Third, because you're limited by what
23 09:54 23 you can do by Voting Rights constraints and by
24 09:54 24 constitutional constraints, including whole
25 09:54 25 county provisions, particularly as it was set

1 09:54 1 back -- sent back by the court, so there were
2 09:54 2 limitations of what could and couldn't happen
3 09:54 3 despite what members may have wished.
4 09:54 4 You know, I think all those things go
5 09:54 5 into making it its own creature than any other
6 09:54 6 bill we deal with, but I would again say,
7 09:54 7 although I would think it much more appropriate
8 09:54 8 to have as otherwise been done in other
9 09:54 9 redistrictings a much more public process
10 09:54 10 because that public process had taken place in
11 09:54 11 so much previous to that short session and
12 09:55 12 because the data, the knowledge, the court
13 09:55 13 plan, everything was out there and had been for
14 09:55 14 months and months, the final changes that were
15 09:55 15 being made were very much in the nature of our
16 09:55 16 institutions, the gerrymandering that goes on
17 09:55 17 often for different reasons.
18 09:55 18 So I guess my answer would be to your
19 09:55 19 question is was it an odd process, was it a bit
20 09:55 20 truncated for that short session, yes, but
21 09:55 21 there were a whole lot of reasons why that was
22 09:55 22 probably going to happen because the final
23 09:55 23 result there of whether this precinct got put
24 09:55 24 in or that one didn't and at that point in that
25 09:55 25 process probably was fairly ordain by the

1 09:55 1 rules.

2 09:55 2 Q. So certainly a more truncated process than the

3 09:55 3 process that 589 went through?

4 09:55 4 A. Oh, I don't think that's the case. No, I

5 09:55 5 wouldn't -- I would actually disagree

6 09:55 6 completely with that assessment.

7 09:55 7 Q. So it was a day-and-a-half session with no

8 09:56 8 committee meetings in the House?

9 09:56 9 A. Right.

10 09:56 10 Q. Came back for a concurrent vote and that's less

11 09:56 11 truncated than what House Bill 589 went

12 09:56 12 through?

13 09:56 13 A. Well, if you're taking strictly the amount of

14 09:56 14 time that the bill was heard in the General

15 09:56 15 Assembly, not going to -- you can count out the

16 09:56 16 days, but the process that's used for the

17 09:56 17 redistricting process is a -- even for that

18 09:56 18 short redistricting is multi month process that

19 09:56 19 goes on for quite some time.

20 09:56 20 As I suggested to you, there was large

21 09:56 21 amount of information that was out there to

22 09:56 22 members in both parties: Access to mapping,

23 09:56 23 access to district data, access to national

24 09:56 24 data that we needed to look at, input requested

25 09:56 25 in the map drawing process in each caucus, I'm

1 09:56 1 sure. So that a lot of that discussion went on

2 09:56 2 between parties and between their caucus map

3 09:56 3 drawers over a long period of time.

4 09:57 4 It had also come off an extensive

5 09:57 5 public and open process on the first plan that

6 09:57 6 was struck down. So a lot of the information,

7 09:57 7 regardless of what your outcome was going to

8 09:57 8 be, was already out there.

9 09:57 9 So if you're talking about sort of the

10 09:57 10 process on the day, yeah, I don't think there

11 09:57 11 was much difference in terms of the timing, but

12 09:57 12 that is vastly different than what happened

13 09:57 13 with 589 in my opinion.

14 09:57 14 Q. So it would be fair to say that the legislative

15 09:57 15 process for the 2003 redistricting plan was

16 09:57 16 much more truncated than the legislative

17 09:57 17 process for House Bill 589?

18 09:57 18 A. I think it would be fair to say the formal in

19 09:57 19 on-the-floor time was more -- was shorter in

20 09:57 20 589 than it was -- I mean in the redistricting

21 09:57 21 House Bill 3 -- or Senate Bill 3 than it was in

22 09:57 22 589, but for -- but the process vastly

23 09:57 23 different.

24 09:57 24 And obviously redistricting, again, is

25 09:58 25 its very own, very different bill than anything

1 10:12 1 THE VIDEOGRAPHER: Back on record, this

2 10:12 2 begins Disk Number 2. The time is 10:12 a.m.

3 10:12 3 BY MR. STRACH:

4 10:12 4 Q. Representative Glazier, if you would turn to

5 10:12 5 paragraph 34 of this declaration.

6 10:12 6 A. Sure. All right.

7 10:12 7 Q. This is a paragraph regarding the adoption of

8 10:12 8 same-day voter registration, correct?

9 10:12 9 A. Okay.

10 10:12 10 Q. Feel free to read it.

11 10:13 11 A. Okay, I'll do that real fast.

12 10:13 12 All right.

13 10:13 13 Q. You note here that the process in the House

14 10:13 14 occurred over the course of weeks and included

15 10:13 15 multiple committee hearings; is that correct?

16 10:13 16 A. That's my recollection.

17 10:13 17 Q. And did that also occur with respect to the

18 10:13 18 House process in -- with respect to House Bill

19 10:13 19 589 to your knowledge?

20 10:13 20 A. With regard to the first version, the House

21 10:13 21 bill with just the voter ID provisions, it did,

22 10:13 22 and it was a really good process, I thought,

23 10:13 23 for that. It was the subsequent final piece of

24 10:14 24 legislation that became the problem or that did

25 10:14 25 not.

1 10:16 1 going to even be heard or what the PCS is going
2 10:16 2 to look like.

3 10:16 3 On a bill that is of this magnitude, I
4 10:16 4 think having public input and public knowledge
5 10:16 5 in advance to be able to prepare input is
6 10:16 6 pretty crucial.

7 10:16 7 Q. Do you think it was a better process for having

8 10:16 8 that committee meeting where members of the

9 10:16 9 public were allowed to speak than had it not

10 10:16 10 occurred?

11 10:16 11 A. Other sure.

12 10:16 12 Q. The -- I know you're not in the Senate so I
13 10:16 13 don't know if -- do you recall how many days of
14 10:16 14 debate House Bill 589 got in the Senate?

15 10:16 15 A. My recollection is -- are we talking about
16 10:16 16 committee and floor?

17 10:16 17 Q. Just floor debate.

18 10:16 18 A. My recollection is it was one day of floor
19 10:16 19 debate on -- on the final 589?

20 10:16 20 Q. Right.

21 10:16 21 A. My recollection is one day, but not to say that
22 10:17 22 there wasn't a second vote early in the next
23 10:17 23 day. That I can't remember.

24 10:17 24 Q. Alright. You could stand corrected on that
25 10:17 25 obviously?

1 10:17 1 A. Sure. I would have to go back and look at the
2 10:17 2 chronology.

3 10:17 3 Q. Then once the Senate passed the substitute
4 10:17 4 bill, it came back to the House for a vote on
5 10:17 5 the concurrence?

6 10:17 6 A. Concurrence, that's correct.

7 10:17 7 Q. You were present that day?

8 10:17 8 A. I was.

9 10:17 9 Q. Do you know -- well, let me ask you this:

10 10:17 10 You were allowed to speak, correct?

11 10:17 11 A. On the floor?

12 10:17 12 Q. On the floor.

13 10:17 13 A. Yes. We had time limit which was imposed
14 10:17 14 which, as I recall, may have been -- may have
15 10:17 15 been a hundred minutes or something for us and
16 10:17 16 30 minutes for the majority party. It was
17 10:17 17 somewhere in the two-hour range total I think
18 10:17 18 was allowed.

19 10:17 19 So we had to divide up our time on the
20 10:17 20 Democratic side, but since I was significantly
21 10:18 21 involved in this bill, I had -- I was given
22 10:18 22 some significant amount of minutes to use.

23 10:18 23 Q. Did you get an opportunity to say everything

24 10:18 24 you wanted to say on the bill?

25 10:18 25 A. Probably not an opportunity to say everything I

1 10:18 1 wanted to say, but -- but I got out the major
2 10:18 2 points I wanted to get out. I don't claim that
3 10:18 3 my particular speech would have been any better
4 10:18 4 had I had more time.

5 10:18 5 Q. Okay. Is it your recollection that all the
6 10:18 6 members of the Democratic caucus who wanted to
7 10:18 7 speak on the bill were allowed to ultimately
8 10:18 8 speak on the bill?

9 10:18 9 A. In fact, I think it's the only time in my
10 10:18 10 legislative career where the members in the
11 10:18 11 minority were so angry and disappointed about a
12 10:18 12 bill that in our caucus the decision was made,
13 10:18 13 even within the time limits, that we would try
14 10:18 14 to make it so that we would all shorten any
15 10:19 15 speeches we had so that everyone could express
16 10:19 16 our view, and it's the only time that I've seen
17 10:19 17 either party be in that position in my 12 years
18 10:19 18 in the legislature.

19 10:19 19 And I believe that was accomplished. I
20 10:19 20 think we may have had two people out that day,
21 10:19 21 one whose child was having a heart operation.
22 10:19 22 I don't remember whether the other member was
23 10:19 23 sick. I think we had two people gone, so I
24 10:19 24 think all 41 of the remaining Democrats all
25 10:19 25 said something.

1 10:20 1 were allowed to speak?

2 10:20 2 A. I have no -- again, I haven't looked at that
3 10:20 3 because it wasn't part of my declaration. So I
4 10:20 4 have no independent recollection if there was
5 10:20 5 any time limits imposed, whether people were
6 10:20 6 allowed to speak. I just don't know.

7 10:20 7 Q. Would you --

8 10:20 8 A. I would tell you if they weren't allowed to,
9 10:20 9 they should have been allowed to.

10 10:20 10 Q. That's what I was going to ask you.

11 10:20 11 A. Okay.

12 10:21 12 Q. As I understand it, when a member wants to
13 10:21 13 speak, say, in the House of Representatives and
14 10:21 14 you're debating a bill and you want to speak,
15 10:21 15 you push a button at your desk and it tells the
16 10:21 16 speaker that you want to speak; is that
17 10:21 17 correct?

18 10:21 18 A. That's correct.

19 10:21 19 Q. And then it sets up what they call a queue?

20 10:21 20 A. Yes.

21 10:21 21 Q. So the speaker knows how many people want to
22 10:21 22 talk?

23 10:21 23 A. That's correct.

24 10:21 24 Q. To your knowledge, was anyone left in the queue
25 10:21 25 when they took the vote to concur on House Bill

1 10:21 1 589?

2 10:21 2 A. I don't think so. I think everyone -- again,

3 10:21 3 knowing the time limit -- may have only spoke

4 10:21 4 for a minute, but I think the speaker was -- he

5 10:21 5 may have even given us, as I recall, a minute

6 10:21 6 or two more to make sure that the final people

7 10:21 7 in the queue got their minute.

8 10:21 8 So, no, I don't think there was anyone

9 10:21 9 left in the queue.

10 10:21 10 Q. Do you recall that the speaker did extend the

11 10:21 11 initial time limit?

12 10:21 12 A. I'm thinking he did by maybe two, three minutes

13 10:21 13 because I think there were a couple lights left

14 10:22 14 and we had hit our hundred minutes.

15 10:22 15 So my recollection is that that

16 10:22 16 happened, but the transcript would tell you.

17 10:22 17 Q. With respect to the passage of House Bill 589,

18 10:22 18 have you contended or do you contend that there

19 10:22 19 were actually any rules violations in the

20 10:22 20 legislative process that you're aware of?

21 10:22 21 A. House rules, no.

22 10:22 22 Q. Do you know if there was any violations of

23 10:22 23 Senate rules or have you even looked at that?

24 10:22 24 A. Well, some of us might say in the House the

25 10:22 25 Senate doesn't operate under rules, but to the

1 10:22 1 extent that they do, I have not looked at that.

2 10:23 2 Q. Do you recall this past session, 2013 long

3 10:23 3 session, do you recall a bill that I think

4 10:23 4 became known as the Sharia Law Bill?

5 10:24 5 A. I think I know what you're talking about.

6 10:24 6 Q. Do you recall that that bill went through what

7 10:24 7 we talked about earlier, the gut-and-amend

8 10:24 8 process?

9 10:24 9 A. It did.

10 10:24 10 Q. And did that bill to your recollection change

11 10:24 11 in the Senate and then come back to the House

12 10:24 12 for a concurrence vote?

13 10:24 13 A. I think that's correct.

14 10:24 14 Q. And then similarly, do you recall a bill that

15 10:24 15 was known as I believe House Bill 74, the

16 10:24 16 Regulatory Reform Bill?

17 10:24 17 A. Yeah, I know that bill. I don't recall its

18 10:24 18 process quite as much as I recall the

19 10:24 19 motorcycle Sharia Law Bill.

20 10:24 20 Q. Do you recall that the Regulatory Reform Bill

21 10:24 21 came back to the House after undergoing some

22 10:24 22 changes in the Senate for a concurrence vote?

23 10:24 23 A. I suspect that would be true.

24 10:24 24 Q. Do you recall that occurred on the last day of

25 10:24 25 the session?

1 10:24 1 A. If you're telling me I would believe that.

2 10:25 2 MR. BROOK: I would just object to
3 10:25 3 foundation here as he said he basically doesn't
4 10:25 4 know.

5 10:25 5 MR. STRACH: Okay. All right. That's
6 10:25 6 all I have.

7 10:25 7 EXAMINATION

8 10:25 8 BY MR. BROOK:

9 10:25 9 Q. Representative Glazier, good to keep going?

10 10:25 10 A. Sure.

11 10:25 11 Q. My name is Chris Brook. I'm counsel for
12 10:25 12 plaintiff League of Women Voters class as well
13 10:25 13 as a number of other groups and individuals who
14 10:25 14 have challenged House Bill 589.

15 10:25 15 As Phil mentioned at the beginning of
16 10:25 16 his questions, if at any point you have
17 10:25 17 questions about my question, you need me to
18 10:25 18 clarify, please do not hesitate to ask me to do
19 10:25 19 so. I have no doubt that I will ask two
20 10:25 20 questions that make sense to no one other than
21 10:25 21 me in the room and there are quite a lot of
22 10:25 22 people here.

23 10:25 23 A number of the items that I was going
24 10:25 24 to ask you about Phil predictably has asked
25 10:25 25 about already, so there might be occasions

1 10:43 1 the Democrats had majority, he was an
2 10:43 2 Appropriations Subcommittee chair and, again,
3 10:43 3 really respected former county manager for a
4 10:43 4 number of years in Raleigh.

5 10:43 5 Senator Brunstetter, another lawyer,
6 10:43 6 great former county commissioner, he was named
7 10:43 7 by Senator Berger when the Republicans took the
8 10:43 8 majority as the -- one of the co-budget chairs,
9 10:43 9 Appropriations chairs and Judiciary chair, and
10 10:43 10 he and I had worked together. He was also a
11 10:43 11 member of the Legislative Ethics Committee. So
12 10:43 12 we had done a lot of work together.

13 10:43 13 But all those three -- and then Senator
14 10:43 14 Bingham I think chaired Health and Human
15 10:43 15 Services for the majority now and back then was
16 10:43 16 also maybe a chair of Health Committee even
17 10:43 17 under the Democratic administration.

18 10:43 18 And so all of these four were pretty
19 10:43 19 instrumental leaders in the Senate and senators
20 10:43 20 who really worked to try to gain some
21 10:44 21 bipartisan consensus.

22 10:44 22 And I would say, by the way, the same
23 10:44 23 thing about Representative Justice and
24 10:44 24 Representative McComas on the House side.

25 10:44 25 Q. What, if anything, do you remember about that

1 10:44 1 legislative process?

2 10:44 2 A. You know, I can go back and look. My

3 10:44 3 recollection is that it followed I think -- it

4 10:44 4 may have gone -- my recollection is may have

5 10:44 5 gone through Elections Committee and J

6 10:44 6 Committee.

7 10:44 7 I do remember that it went through a

8 10:44 8 pretty extensive process because we knew how

9 10:44 9 important the bill was and wanted Republican

10 10:44 10 input and we knew it was going to be -- there

11 10:44 11 was going to be some partisan split on it and

12 10:44 12 so wanted to make sure that it got full

13 10:44 13 vetting.

14 10:44 14 I cannot tell you without looking at

15 10:44 15 the transcript exactly how many committees it

16 10:44 16 went to, but it certainly was out there for a

17 10:44 17 long time and had a pretty complete committee

18 10:44 18 vetting.

19 10:44 19 Q. Similar question about it pre-registration bill

20 10:45 20 that was mentioned in paragraph 15, what was

21 10:45 21 the thrust of that bill?

22 10:45 22 A. It was clearly to allow 16- to 17-year-olds to

23 10:45 23 pre-register which was to get younger voters

24 10:45 24 more engaged.

25 10:45 25 Part of this -- I want to make sure I

1 10:46 1 board of elections, but he and I have a great
2 10:46 2 relationship, and so I was pretty engaged in
3 10:46 3 what their recommendations were and I know this
4 10:46 4 was one of them.

5 10:46 5 Q. What do you recollect of anything about that
6 10:46 6 legislative process?

7 10:46 7 A. I don't recollect -- I don't recollect much
8 10:46 8 about that legislative process. Again, I
9 10:46 9 assume it went through the two-committee rule
10 10:46 10 that Joe Hackney had in place then. I don't
11 10:46 11 know any reason why it wouldn't have. It
12 10:46 12 certainly received a full vetting, but I was
13 10:46 13 not part of the election law.

14 10:47 14 And again, if I recollect, a lot of
15 10:47 15 those then were referred to Judiciary A and I
16 10:47 16 was on judiciary -- or Judiciary 1. I was on
17 10:47 17 Judiciary 2.

18 10:47 18 Q. Similar questions. Paragraph 16 references the
19 10:47 19 Uniform Military and Overseas Voter Act. What
20 10:47 20 was the thrust of that bill?

21 10:47 21 A. That I can talk to in a little more detail. I
22 10:47 22 was actually a prime sponsor on this bill and
23 10:47 23 it was a clearly bipartisan bill. It was
24 10:47 24 Representative Martin, Representative Killian,
25 10:47 25 Representative Lewis and myself I believe as

1 10:47 1 the sponsors, and I believe this bill passed
2 10:47 2 unanimously in both houses, and it was clearly
3 10:47 3 designed to increase access to absentee voting
4 10:47 4 by military populations which were inordinately
5 10:47 5 deployed at that point and to extend the time
6 10:47 6 for which their ballots could be returned from
7 10:47 7 overseas.

8 10:47 8 I recall this bill particularly because
9 10:47 9 at that point the majority had taken over and
10 10:47 10 Representative Martin's seat was right behind
11 10:47 11 mine in the House. He is in the Reserves and
12 10:47 12 an extraordinarily engaged person in the
13 10:48 13 military from our party. And he approached me
14 10:48 14 with it because I had just won an election in
15 10:48 15 2010 by 44 votes, as is history in my county.
16 10:48 16 The absentee ballots went disproportionately
17 10:48 17 for my Republican opponent.

18 10:48 18 And he said I want you to think about
19 10:48 19 this bill and what we're going to try to do and
20 10:48 20 how we're trying to increase access to military
21 10:48 21 voters, and I remember turning around to him
22 10:48 22 after I read it, and I think we were in session
23 10:48 23 so I read it as we were in some debate that I
24 10:48 24 wasn't engaged in, and said to him "You realize
25 10:48 25 had this bill been law when I was running in

1 10:48 1 2010, I would have lost that election," and he
2 10:48 2 looked at me and he said yeah. And I said "I
3 10:48 3 just need to think about this because as a
4 10:48 4 partisan matter this is not going to help
5 10:48 5 Democrats" was my term.

6 10:48 6 And I read it that night, thought about
7 10:48 7 it and came back the next day and I said, I
8 10:49 8 thought about it and I'll be a sponsor because
9 10:49 9 it's really kind of irrelevant. I mean, the
10 10:49 10 point of this is increased access. It really
11 10:49 11 shouldn't matter who's going to vote and that's
12 10:49 12 a pretty bad thought on my part.

13 10:49 13 And I think if we're all about sort of
14 10:49 14 increasing opportunity, folks who are serving
15 10:49 15 overseas right now are having a very difficult
16 10:49 16 time accessing that opportunity, so I'm with
17 10:49 17 you and put my name on the bill.

18 10:49 18 Q. What, if anything, do you recollect about the
19 10:49 19 legislative process surrounding that?

20 10:49 20 A. It went through a pretty extensive legislative
21 10:49 21 process even though it wasn't seriously
22 10:49 22 contested. I don't remember the committees,
23 10:49 23 although I suspect it went to Homeland and
24 10:49 24 Veterans, the name of that committee has
25 10:49 25 changed, Veterans Committee, and then probably

1 10:49 1 to either Election Law or Judiciary Committee

2 10:49 2 for final ramp-up and then was passed.

3 10:49 3 As I suggested, I think it passed

4 10:49 4 unanimously in both houses, and there was

5 10:49 5 fairly good floor debate. There was certainly

6 10:49 6 no limitations on floor debate, and I think

7 10:50 7 everyone was in agreement that this was the

8 10:50 8 right thing to do.

9 10:50 9 Again, it was clearly, based on voting

10 10:50 10 history, not going to help my party but that

11 10:50 11 was sort of irrelevant to us given the

12 10:50 12 circumstances.

13 10:50 13 Q. In paragraph 16 you say -- again, talking about

14 10:50 14 the Uniform Military and Overseas Voters Act,

15 10:50 15 quoting from your declaration:

16 10:50 16 "The measure increased access

17 10:50 17 to absentee voting for military and

18 10:50 18 overseas voters by eliminating the

19 10:50 19 witness attestation requirement and

20 10:50 20 extending the time to return ballots

21 10:50 21 from overseas."

22 10:50 22 A. That's correct. Those were the two big

23 10:50 23 provisions.

24 10:50 24 Q. Were there any concerns raised about the

25 10:50 25 possibility of voter fraud?

1 10:53 1 been realized by these measures?

2 10:53 2 A. Up until 589, yes.

3 10:54 3 Q. Turning to the legislative --

4 10:54 4 A. And I will add not fully. There are other
5 10:54 5 options that other states use, including using
6 10:54 6 modern technology to a better advantage like
7 10:54 7 Oregon may be experimenting with, but I do
8 10:54 8 think the answer to your question is we've come
9 10:54 9 a long way.

10 10:54 10 Q. Turning again, Phil talked about this at length
11 10:54 11 so I won't spend tons of time on it, but the
12 10:54 12 legislative process relating to 589 and he
13 10:54 13 actually flagged the passage that I flagged as
14 10:54 14 well from paragraph 18, on page 6 and it says:
15 10:54 15 "From my tenure in the House, the
16 10:54 16 legislative process that led to the
17 10:54 17 passage of HB 589 is the most egregious
18 10:54 18 example of legislating on a matter of
19 10:54 19 great importance without meaningfully
20 10:54 20 and transparently vetting the provisions
21 10:54 21 adopted."

22 10:54 22 Is that correct?

23 10:54 23 A. It is.

24 10:54 24 Q. What factors led you to arrive at that
25 10:54 25 conclusion?

1 10:54 1 A. Well, we had a bill that had received on voter
2 10:54 2 ID alone that went over from the House that I
3 10:55 3 thought the House had done, even though I
4 10:55 4 disagreed with the bill, an extensively good
5 10:55 5 process on. There had been full committee
6 10:55 6 vetting several times before any vote was
7 10:55 7 taken, two public hearings on that bill, again,
8 10:55 8 I think multiple hours on those hearings. I
9 10:55 9 think there were hundreds of people who signed
10 10:55 10 up for the two hearings. Available, out in the
11 10:55 11 open, people had noticed several days in
12 10:55 12 advance to be prepared to come to Raleigh to do
13 10:55 13 that.

14 10:55 14 Then there was a full committee process
15 10:55 15 without time restrictions that went on for many
16 10:55 16 hours. Well, let me back up. There was also
17 10:55 17 the ability of both sides, both parties to
18 10:55 18 bring speakers in about voter ID. We were
19 10:55 19 specifically working with Representative Lewis,
20 10:55 20 who chaired the committee, to bring in the
21 10:55 21 director of elections at one of the major
22 10:55 22 counties in Florida and we brought in folks
23 10:55 23 from the Brennan Center, there were speakers
24 10:55 24 that came in from Civitas, there was a speaker
25 10:56 25 who came in from Indiana or Illinois, as I

1 10:56 1 remember, probably Indiana, so that there was

2 10:56 2 expert opinion that was brought to bear.

3 10:56 3 And all of that took place before a

4 10:56 4 draft came out, a full draft. Then the draft

5 10:56 5 came out. Then there was large, multiple-hour

6 10:56 6 committee process with every amendment taken

7 10:56 7 and voted on, and I think the Democrats

8 10:56 8 produced maybe 12, 13, 14 amendments, several

9 10:56 9 adopted. I was pretty involved and I drafted a

10 10:56 10 lot of those amendments with different members

11 10:56 11 ran, and they were an attempt to create better

12 10:56 12 availability for identification, more

13 10:56 13 consideration for how provisionals would be

14 10:56 14 treated, less restrictions on the ID being

15 10:56 15 determinative. So that was all done.

16 10:56 16 Then there was a full debate on the

17 10:56 17 House floor, again, as I recall, amendments

18 10:56 18 allowed and voted on. I don't remember there

19 10:56 19 being a time restriction.

20 10:56 20 I thought the process for the original

21 10:56 21 bill was as good a process as you could have

22 10:57 22 for a very controversial, constitutionally

23 10:57 23 significant bill, and I said at the time I

24 10:57 24 think in my floor speech that while I'm going

25 10:57 25 to vote against this, there's reasonable

1 10:57 1 differences on this policy decision and I
2 10:57 2 credit the majority with having as open a
3 10:57 3 process as you could ask for.
4 10:57 4 That changed completely in the final
5 10:57 5 version of 589. The House version that went
6 10:57 6 over sat there in the Senate for several months
7 10:57 7 pending the Supreme Court's decision in Shelby
8 10:57 8 which came out, and my recollection is the day
9 10:57 9 it came out or within a day of it coming out
10 10:57 10 the Senate indicated they were now, through a
11 10:57 11 statement by Senator Tom Apodaca, who's the
12 10:57 12 majority leader in the Senate, that they were
13 10:57 13 now going to be able to put the whole --
14 10:57 14 everything they wanted in a new bill. He used
15 10:57 15 different words, but that was the effect of it.
16 10:57 16 And within a short period of time
17 10:57 17 thereafter the bill got completely transformed
18 10:58 18 in what had one section on one issue became a
19 10:58 19 54-page bill with 30 some sections or 40 some
20 10:58 20 sections, I can't even remember, that
21 10:58 21 constituted the full, I think, wish list that
22 10:58 22 Senator Apodaca talked about.
23 10:58 23 That came out. I think it was Phil
24 10:58 24 mentioned in his questioning one night in a PCS
25 10:58 25 the next morning or the next lunch time there

1 10:58 1 was a Rules Committee meeting. The Rules
2 10:58 2 Committee heard the bill. I believe it was put
3 10:58 3 on the Senate floor that same evening. There
4 10:58 4 was maybe three hours or so of debate, as I
5 10:58 5 remember. Amendments were heard, I think maybe
6 10:58 6 one or two granted, the rest denied.
7 10:58 7 The bill passed, and then I do think
8 10:58 8 there was a third reading the next morning.
9 10:58 9 The bill came over to us. I remember using the
10 10:58 10 day that the bill was in the House or the
11 10:59 11 Senate time to -- that was our only day to
12 10:59 12 prepare figuring there weren't going to be many
13 10:59 13 changes on the House side. We knew it was
14 10:59 14 coming over on a motion to concur which meant
15 10:59 15 that we were not likely under the scenario to
16 10:59 16 get any attempt to do much with it, and so we
17 10:59 17 prepared accordingly as best we could in that
18 10:59 18 24-hour period.
19 10:59 19 It went that afternoon on the House
20 10:59 20 floor. We were told there was a time
21 10:59 21 limitation on the discussion. Clearly there
22 10:59 22 was no ability to have public comment or
23 10:59 23 discussion or notice that it was coming over,
24 10:59 24 that it was going to be voted on that day.
25 10:59 25 There was no ability for us outside of, you

1 10:59 1 know, the few hours we had to be prepared and

2 10:59 2 get ready for the discussion on the bill and

3 10:59 3 the bill was heard that evening.

4 10:59 4 We had the limitation on time, and I

5 10:59 5 think we've been through the process of what

6 10:59 6 happened on the floor.

7 10:59 7 It was, as I suggested, I thought and

8 10:59 8 number of my colleagues said so, the worst

9 11:00 9 example of legislating and governing that I've

10 11:00 10 seen in public office and that I believe it

11 11:00 11 would be a textbook example for how not to

12 11:00 12 produce a bill affecting your democracy by any

13 11:00 13 governing institution in the free world.

14 11:00 14 Q. After House Bill 589 passed the House, what did

15 11:00 15 you hear about Senate consideration of the

16 11:00 16 bill? You referenced Senator Apodaca's

17 11:00 17 comments. What else did you hear about that

18 11:00 18 consideration?

19 11:00 19 A. I mean Senator Apodaca's comments were the

20 11:00 20 public comments. It was clear that it was

21 11:00 21 going -- we didn't know everything that it

22 11:00 22 would contain because that was put in the PCS

23 11:00 23 by the majority I think when it first emerged

24 11:00 24 right before the first Senate Rules Committee

25 11:00 25 meeting. We knew that it would likely contain

1 11:00 1 ideas that had been in other bills or had been

2 11:00 2 talked about nationally. There were -- even

3 11:00 3 given that there were certainly surprises. I

4 11:00 4 don't think anyone predicted the

5 11:00 5 out-of-precinct limitation, and I don't believe

6 11:01 6 the out-of-precinct limitation was in any

7 11:01 7 pending bill.

8 11:01 8 Some of the other limitations to some

9 11:01 9 degree on early vote, same-day registration I

10 11:01 10 think had a bill pending somewhere that had

11 11:01 11 never been heard. So we knew there were some

12 11:01 12 things coming.

13 11:01 13 I don't think anybody thought in their

14 11:01 14 wildest dreams that there would be an increase

15 11:01 15 in contribution limits in it. Nobody

16 11:01 16 realistically thought the answer to our

17 11:01 17 election problems was more money and less

18 11:01 18 transparency. So there were some provisions

19 11:01 19 there that were not thought about.

20 11:01 20 I don't know if that's -- there

21 11:01 21 certainly was a lot of talk it was going to be

22 11:01 22 rushed through the Senate and then rushed

23 11:01 23 through the House.

24 11:01 24 Q. The other measures that were laying around that

25 11:01 25 you referenced just then, what -- were you

1 11:01 1 aware of any process relating to those?

2 11:01 2 A. There wasn't because they weren't heard. So

3 11:01 3 they were bills that were filed, my point being

4 11:01 4 some of these provisions were in bills that

5 11:01 5 were filed nobody knew which were going to be

6 11:02 6 added in, what would be heard, but even given

7 11:02 7 that, there were provisions added in that no

8 11:02 8 one had ever heard before and then had serious

9 11:02 9 effect.

10 11:02 10 Q. How did the voter photo identification

11 11:02 11 requirement that passed the House originally

12 11:02 12 compare to the voter photo identification

13 11:02 13 requirement that subsequently passed the

14 11:02 14 Senate?

15 11:02 15 A. The final version was more restrictive. Again,

16 11:02 16 to the credit of the House majority in our

17 11:02 17 debate on the limited House bill, there were

18 11:02 18 amendments taken that expanded the types of

19 11:02 19 identification that would be available and

20 11:02 20 usable to vote, including student IDs from

21 11:02 21 university campuses and I think community

22 11:02 22 colleges, if I remember.

23 11:02 23 If you had a government card from a

24 11:02 24 local government, I think that was allowable,

25 11:02 25 and I believe as well there was a third

1 11:02 1 provision that allowed some access if you had a

2 11:03 2 government benefits card, as I remember. I

3 11:03 3 think that's right.

4 11:03 4 At any rate, there were certainly were

5 11:03 5 some ease of what would constitute an ID.

6 11:03 6 Those were taken out in the final bill that

7 11:03 7 came over from the Senate despite I think the

8 11:03 8 very good faith attempt on the House side by

9 11:03 9 the majority and the minority to put those in

10 11:03 10 and make ID more accessible.

11 11:03 11 The student ID bothered me immensely

12 11:03 12 because student ID is what you need to go get

13 11:03 13 your tuition, your scholarship money, to get

14 11:03 14 you on college campuses, for security purposes

15 11:03 15 used on college campuses. So it was good

16 11:03 16 enough to get your student loan, it was good

17 11:03 17 enough to get you on campus, it was good enough

18 11:03 18 to survive a security check on campus but not

19 11:03 19 good enough for you to have the fundamental

20 11:03 20 right to vote. That just made -- there's no

21 11:03 21 legitimate reason for that distinction.

22 11:03 22 And so that's the kind of thing that

23 11:03 23 was far more restricted in the final bill

24 11:04 24 without any real input from the House side.

25 11:04 25 I think there were other changes as

1 11:09 1 A. It was.

2 11:09 2 Q. How much time during the House's second -- the

3 11:09 3 House's only consideration of the full vote

4 11:09 4 version of House Bill 589 did you have to

5 11:09 5 review and assimilate that document?

6 11:09 6 A. None.

7 11:09 7 Q. Is that typical?

8 11:09 8 A. No.

9 11:09 9 Q. Can you amplify on that?

10 11:09 10 A. You know, first on any bill that has fiscal

11 11:10 11 impact, it's normally posted with the bill now

12 11:10 12 to the website so you can see it. I don't

13 11:10 13 think that occurred here. I have to go back

14 11:10 14 and look to see if it was done and I missed it,

15 11:10 15 but I don't think so.

16 11:10 16 It is normally available upon request

17 11:10 17 if the bill has a perceived fiscal impact by

18 11:10 18 members if certain folks request it. No one in

19 11:10 19 the minority, unless it's your bill, is allowed

20 11:10 20 to request it directly, but generally if it's

21 11:10 21 available on any bill, most legislators want

22 11:10 22 everybody to know the costs we're getting into.

23 11:10 23 None of that occurred in this case.

24 11:10 24 Q. You sort of answered this question in more

25 11:10 25 general comments, but how can you say you don't

1 11:10 1 know the fiscal implications or the magnitude

2 11:10 2 of the fiscal implications if there's a fiscal

3 11:10 3 note like this?

4 11:11 4 A. Well, first, the fiscal note needs to be shared

5 11:11 5 with all the members. It wasn't.

6 11:11 6 Secondly, it ought to be out for public

7 11:11 7 view, which they are now, so there could be

8 11:11 8 comment on the methodology and on the cost and

9 11:11 9 that didn't occur.

10 11:11 10 Third, fiscal note deals with certain

11 11:11 11 fiscal ramifications. It doesn't deal with

12 11:11 12 fiscal ramification that can only become

13 11:11 13 apparent from other state's experience with

14 11:11 14 costs that you don't even anticipate are going

15 11:11 15 to be part of it when you think about it.

16 11:11 16 That's why you spend time and vet your bills

17 11:11 17 and talk with people in other states to find

18 11:11 18 out you're trying to solve Problem A but you

19 11:11 19 end up with Unintended Consequence B and C,

20 11:11 20 including fiscal cost. You don't know that if

21 11:11 21 you don't ask and there was no capacity or time

22 11:11 22 to ask.

23 11:11 23 Q. And you referenced that you've had the

24 11:11 24 opportunity to review it previously?

25 11:11 25 A. I have.

1 11:11 1 Q. Is the fiscal note concrete in regards to the
2 11:11 2 cost of implementing HB 589?

3 11:11 3 A. Well, there's portions of it that they didn't
4 11:11 4 have sufficient time to really -- or data to
5 11:12 5 really amplify, and so there are portions of it
6 11:12 6 where it will say fiscal research is unable to
7 11:12 7 project the number of registered voters who
8 11:12 8 request a free certified copy of their birth or
9 11:12 9 marriage certificate. So they're having to
10 11:12 10 base it on the best estimate that they can.

11 11:12 11 There are other places in the -- in the
12 11:12 12 report where it says it's simply unable to come
13 11:12 13 up with a cost, it's just not calculable based
14 11:12 14 on the information they have and the time they
15 11:12 15 had to do it.

16 11:12 16 Several places in here that are just
17 11:12 17 simply unable to make an estimate and that
18 11:12 18 doesn't mean there aren't costs. It just means
19 11:12 19 there's insufficient time and data at the time
20 11:12 20 this was the produced to be able to analyze
21 11:12 21 that, and I think that would be accurate on the
22 11:12 22 staff's part.

23 11:12 23 Q. You spoke with Phil in a fair amount of detail
24 11:12 24 about how the floor debate proceeded in the
25 11:12 25 House during its consideration of the full

1 11:13 1 version of House Bill 589.

2 11:13 2 Were supportive comments offered by the

3 11:13 3 majority relating to House Bill 589?

4 11:13 4 A. Yes. I recall the only person who spoke in any

5 11:13 5 length was -- maybe the only person who spoke

6 11:13 6 at all for the majority was Representative

7 11:13 7 Lewis who gave -- initiated the debate with a

8 11:13 8 summary of the provisions.

9 11:13 9 And then I think the only other time he

10 11:13 10 spoke, other than maybe a question that might

11 11:13 11 have been directed his way, was a summary sort

12 11:13 12 of rebuttal to all the Democratic comments that

13 11:13 13 were made, and that was the extent of the

14 11:13 14 majority's presentation on the floor.

15 11:13 15 Q. Do you remember the substance of any of

16 11:13 16 Representative Lewis's comments?

17 11:13 17 A. The only comments that I remember on the front

18 11:13 18 end were just a fairly brief recitation from

19 11:13 19 the legislative staff bill, summary or

20 11:14 20 assistance of what the provisions -- new

21 11:14 21 provisions from the Senate were, and then I

22 11:14 22 recall him -- after the Democrats debated, he

23 11:14 23 had a note pad, I think he stood up and said

24 11:14 24 let me respond to six or seven of the points

25 11:14 25 that were made, and I think he may -- did

1 11:14 1 respond to about six or seven points, a
2 11:14 2 paragraph or sentence on each one, and then a
3 11:14 3 concluding sort of argument about the bill and
4 11:14 4 that was it.

5 11:14 5 Q. The majority only having one representative
6 11:14 6 speak in favor of a bill, is that standard
7 11:14 7 practice for this House?

8 11:14 8 A. Well, it's standard practice if you're passing
9 11:14 9 a golf cart bill. It's not standard practice
10 11:14 10 if you're passing a rewrite of your
11 11:14 11 constitutional right to vote or of any -- and I
12 11:14 12 didn't mean that as sarcastically as it
13 11:14 13 sounded.

14 11:14 14 It's perfectly legitimate. In fact,
15 11:14 15 you know, the House is known for often as the
16 11:15 16 House where everything's been said but not
17 11:15 17 everybody's said it. So we have lots of times
18 11:15 18 that we over speak and one person might do it
19 11:15 19 on a small bill or a local bill where it's easy
20 11:15 20 to explain and not a lot of questions.

21 11:15 21 This was fundamentally a repeal of many
22 11:15 22 pieces of bipartisan legislation. It was a
23 11:15 23 change in my view of constitutional rights for
24 11:15 24 our citizens. It was as controversial a bill
25 11:15 25 as has ever been before the House, and so to

1 11:15 1 have one person speak for 30 minutes divided

2 11:15 2 maybe 10 or 15 minutes or 10 and 15, 15, I've

3 11:15 3 never seen that. I think there was a clear

4 11:15 4 reason why that happened, but it was most

5 11:15 5 unusual.

6 11:15 6 Q. What is the clear reason why that happened in

7 11:15 7 your assessment?

8 11:15 8 A. My assessment for multiple reasons I think that

9 11:16 9 the majority was told that Representative Lewis

10 11:16 10 is the handler of the bill and the chair of

11 11:16 11 that committee, which is totally normal, would

12 11:16 12 give the presentations, but he was also I think

13 11:16 13 designated as probably the only one who was to

14 11:16 14 speak and answer questions and provide

15 11:16 15 comments.

16 11:16 16 And if I was a lawyer for the majority

17 11:16 17 and they were my client, I would have suggested

18 11:16 18 the same thing because you wanted to maximize

19 11:16 19 any chance that the record would have any

20 11:16 20 negative comments.

21 11:16 21 I believe that their caucus -- members

22 11:16 22 of their caucus were not happy about provisions

23 11:16 23 being added from the Senate. I believe that

24 11:16 24 they knew that this would end up, as it has, in

25 11:16 25 litigation, and they wanted the record as clean

1 12:22 1 MR. BROOK: No.

2 12:22 2 MR. STRACH: I've just one or two that
3 12:22 3 I thought about.

4 12:22 4 FURTHER EXAMINATION

5 12:22 5 BY MR. STRACH:

6 12:22 6 Q. I assume you voted in the May primary.

7 12:22 7 A. Yes. It took me a second. Yes.

8 12:22 8 Q. Are you aware of any individual that was not

9 12:22 9 able to vote in the May primary because of the

10 12:22 10 implementation of House Bill 589?

11 12:22 11 A. I did not talk to anybody at the time of the

12 12:23 12 May primary. My answer is I have no evidence

13 12:23 13 from personal observation about that.

14 12:23 14 MR. STRACH: Okay. That's all the
15 12:23 15 questions I have.

16 12:23 16 And just for the record, we've
17 12:23 17 discussed this, but I'm noting for the record
18 12:23 18 that we are withdrawing the Notice of
19 12:23 19 Deposition for Senator Blue. We don't intend
20 12:23 20 to depose him, but we will depose Senator
21 12:23 21 Parmon next week as scheduled.

22 12:23 22 THE VIDEOGRAPHER: This concludes the
23 12:23 23 deposition. Going off the record at 12:23 p.m.

24 24 [SIGNATURE RESERVED]

25 25 [DEPOSITION CONCLUDED AT 12:23 P.M.]