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JOINT LEGISLATIVE COMMITTEE TO SCREEN CANDIDATES
FOR COLLEGE AND UNIVERSITIES BOARD OF TRUSTEES

PUBLIC HEARINGS

Tuesday, April 9, 2013

2:19 p.m.

Statehouse
Columbia, South Carolina

REPORTED BY: SHERI L. BYERS
Registered Professional Reporter

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COMMITTEE MEMBERS IN ATTENDANCE:

SENATOR HARVEY S. PEELER, JR., CHAIRMAN
REPRESENTATIVE WILLIAM R. "BILL" WHITMIRE,
VICE-CHAIRMAN

SENATOR THOMAS C. ALEXANDER

SENATOR J. YANCEY MCGILL

SENATOR ROBERT W. HAYES, JR.

REPRESENTATIVE PHYLLIS J. HENDERSON

REPRESENTATIVE PETER MCCOY

STAFF:

MARTHA CASTO

(INDEX AT REAR OF TRANSCRIPT.)

1 SENATOR PEELER: I'll call the meeting to
2 order. This is a joint committee to screen candidates
3 for college, university board of trustees.

4 I would like to welcome everyone here. I
5 apologize for the cumbersomeness of it. We may have to
6 get up and vote, but I appreciate you bearing with us.

7 First of all, let's take Dr. Smith, Murrell
8 Smith. If you would please come forward.

9 Mr. Smith, if you remember, we carried yours
10 over because of requesting residency. We will get
11 started. I think we need to put you under oath again.

12 Do you swear to tell the truth, the whole
13 truth and nothing but the truth, so help you God?

14 DR. SMITH: I do.

15 SENATOR PEELER: The question was the 4
16 percent that you paid for your property. I think you
17 testified that you and your wife share or your wife --

18 DR. SMITH: Yes.

19 SENATOR PEELER: So that's where we are. So
20 would you like to add to it or do you want us to?

21 DR. SMITH: Just to make sure that everybody
22 understands, I've -- first of all, my wife owns the
23 house, and I don't. But I've always lived in Sumter,
24 2831 Brownfield Way. I've delivered 5,700 babies from
25 that address. I had surgery yesterday, today and

1 tomorrow and Thursday. And I bet you all of those
2 patient will tell you where I came from.

3 If you want to ask my neighbors where I live,
4 I have never, ever lived anywhere but in Sumter since
5 1977. There is no question that that's where I live.
6 That's my residency.

7 I did supply some additional information. I
8 would be more than happy to answer any questions, but I
9 emphatically say that I have never lived at Isle of
10 Palms.

11 My wife, I don't know how -- how much you all
12 want to hear, but my wife lived down there at times. I
13 had children at The Citadel, and that was their home.
14 And my wife wouldn't let me sell it. And if you want
15 to buy it, I will sell it to you today. I've been
16 trying to sell it because the taxes and everything else
17 keep going up.

18 I had sons that lived there going to medical
19 university, residency, medical school. So the house
20 was never anything that -- that I stayed in or did.
21 I've always lived in Sumter. I've been chief of staff
22 at the hospital recently -- excuse me. So I don't know
23 what else I can say other than to guarantee you all I
24 live in Sumter.

25 SENATOR PEELER: I understand. If you could

1 wait for us. We'll be back.

2 (Off the record.)

3 SENATOR PEELER: I apologize again,

4 Dr. Smith --

5 DR. SMITH: No, sir. No problem.

6 SENATOR PEELER: -- for the interruption.

7 When did you apply for the 4 percent?

8 DR. SMITH: You know, I can't honestly answer
9 that question because my wife did all that. And I
10 don't really know when that was. I don't know. I just
11 know where I live.

12 SENATOR PEELER: Did you have to change your
13 voter registration card?

14 DR. SMITH: Yeah. That's a good story. She
15 did all that, and we got online and she told me -- and
16 what was amazing was my in-laws, who are 90 years old,
17 live in Florence and they have a house at Garden City.
18 I didn't understand you didn't -- I didn't have to
19 change anything, and her daddy never changed. By the
20 way, he's a dentist. So I would represent dentists,
21 too. And so when I learned that, I -- I voted absentee
22 down there because I live in Sumter. I don't live at
23 the Isle of Palms.

24 And so I was going to change that thing, and
25 I never -- and when the opportunity came up that I

1 could submit myself to serve on this board, which I
2 thought I was doing service, I didn't know we were
3 going to come up with questions regarding where I live
4 because that never entered my mind.

5 But if it did, you know, I called your
6 office. I know you know that, and I said that I did
7 that and I changed my voter registration and my
8 driver's license to make sure that that wasn't the
9 issue before I came before this board.

10 But never have I ever left Sumter. I go to
11 bed there. I sleep there. I have never changed. So
12 there's no question where I live. My wife, again, owns
13 that house, and I never thought that 4 percent or 6
14 percent or anything would interfere with my ability to
15 serve on the board.

16 SENATOR PEELER: And, Dr. Smith, if this was
17 an at-large seat, you would be imminently qualified.
18 But this -- this requires a residency in the 5th
19 Congressional District, and the 4 percent property tax
20 has been the standard of where your -- where your home
21 is.

22 And that's -- that's the question today. But
23 I think there's kind of a punch list, I think it's
24 called, what you have to accomplish in order to receive
25 the 4 percent tax. And that's where we have to hang

1 our hat.

2 DR. SMITH: But, again, my wife met those
3 requirements. My wife owns the house. It has nothing
4 to do with me. My name is not on that house.

5 SENATOR PEELER: Staff, if you could read
6 just the line -- excuse me.

7 MS. CASTO: This is in Section 12-43-220, and
8 it clarifies for the 4 percent property that, "Under
9 penalty or perjury, I certify that the residence which
10 is subject to the application of my legal residence
11 where I'm domiciled at the time of this application,
12 and that neither I nor any member of my household claim
13 to be a legal resident of a jurisdiction other than
14 South Carolina for any purposes."

15 And it says, "For purposes of this subitem, a
16 member of my household means the owner-occupant,
17 spouse, except when that spouse is legally separated
18 from the owner-occupant."

19 DR. SMITH: So my wife is the owner. That's
20 pretty clear.

21 SENATOR PEELER: And you're the spouse.

22 MS. CASTO: And you're the spouse.

23 DR. SMITH: Yeah. But the spouse doesn't
24 have to live there. It's not what that says to me. I
25 live in Sumter. I live at 2831 Brownfield Way. That's

1 about as simple as it can get. You know --

2 SENATOR HAYES: The thing is, I don't think
3 that you -- although the house is in your wife's name,
4 I don't think that you can get the 4 percent unless you
5 claim, set forth that that's your legal residence. You
6 may not have realized it when you put in for the 4
7 percent, but that's owner-occupied. You don't pay any
8 school operations taxes, you pay 4 percent instead of 6
9 percent. So you have to make that -- now, granted, you
10 didn't know this probably, but I think that's the law.
11 If you're going to claim, you can't have it both ways.
12 It's my understanding. HERE

13 SENATOR PEELER: Representative McCoy.

14 REPRESENTATIVE MCCOY: Thank you, Mr. Chair.

15 SENATOR PEELER: That was Senator Hayes
16 asking questions.

17 REPRESENTATIVE MCCOY: Thank you, Mr. Chair.

18 Dr. Smith, thank you for being here for a
19 second time as well. I appreciate your testimony. I
20 appreciate what you have to say.

21 Could you tell me, because I just haven't
22 seen -- you said you provided some extra documents to
23 this committee. Can you tell me what you provided?

24 DR. SMITH: Letters from the Sumter residence
25 and from the hospital and from the church that I go to

1 and where I give my money. My wife is on the boards
2 there. And the hospital administration and some -- the
3 county sheriff and the people in town to verify where I
4 live every day. Where I go to work and where I come
5 home.

6 REPRESENTATIVE MCCOY: Okay. And can you --
7 can you tell this committee a little bit about how your
8 family or your wife came into ownership of this house?

9 DR. SMITH: Her family, without getting into
10 their financial part, have some money. And right after
11 Hugo, the property at the beach became a little bit
12 cheap. And so that's how we got the house. The
13 problem with that is -- and I'm sure that you folks
14 would want to address that one day, is the property tax
15 and insurance and things have gotten so high that they
16 just -- people in South Carolina can't afford these
17 dad-gone things anymore. And I wanted to sell the
18 house, and my wife didn't want to sell the house
19 because my children went to The Citadel and the medical
20 school and residency.

21 And so she contacted the Charleston County to
22 ask what they could do. And this was their
23 recommendation, is what we did.

24 REPRESENTATIVE MCCOY: Okay. And so your
25 wife has owned this house basically since Hugo has

1 happened?

2 DR. SMITH: That's right.

3 REPRESENTATIVE MCCOY: And we heard from you
4 last time you were here, but I'd like to be clear on
5 this. Is this a vacation home?

6 DR. SMITH: Yes.

7 REPRESENTATIVE MCCOY: Is this a home where
8 you sleep and you lay your head on a daily or nightly
9 basis throughout a week?

10 DR. SMITH: The Isle of Palms?

11 REPRESENTATIVE MCCOY: Yes, sir.

12 DR. SMITH: No, never. Never have.

13 REPRESENTATIVE MCCOY: Is this a place -- and
14 you've already told -- you've already told this
15 committee and you already told us just now, too, that
16 you've delivered over 5,000 children in Sumter. And is
17 this where your medical practice is set up?

18 DR. SMITH: Still is.

19 REPRESENTATIVE MCCOY: And is this where
20 you're registered the vote?

21 DR. SMITH: Yes.

22 REPRESENTATIVE MCCOY: Is this where your
23 driver's license is?

24 DR. SMITH: Yes.

25 REPRESENTATIVE MCCOY: And for intents and

1 purposes, just for this committees' purpose as well, is
2 this where you raised your family?

3 DR. SMITH: Yes. And three of them are still
4 there.

5 REPRESENTATIVE MCCOY: And three of them are
6 still there.

7 And is this also where your business is
8 located?

9 DR. SMITH: Yes, sir.

10 REPRESENTATIVE MCCOY: Okay. And the only
11 reason I ask these questions and it seems a little bit
12 repetitive, I'm sure, to you -- I'm sure you've already
13 answered these. -- is because my interpretation of the
14 law is when you examine somebody's domicile where they
15 reside, you have to look at somebody's intent.

16 DR. SMITH: Right.

17 REPRESENTATIVE MCCOY: And intent is shown in
18 a lot of different ways because I can't get inside your
19 head and tell where you intend to reside. Intent is
20 shown through other activities such as where you're
21 registered to vote, where your driver's license is,
22 where you've raised your family, all these different
23 criteria and ideas have been basically codified into
24 law to establish where somebody resides and where they
25 live.

1 And at the appropriate time, Mr. Chairman, I
2 know that you all have passed around, I requested an
3 opinion from the Attorney General after we left our
4 meeting during our furlough time. I don't know if
5 everybody's had an opportunity to take a look at that.
6 Not only the letter that I sent to Alan Wilson but also
7 the response that came back from the Attorney General's
8 Office.

9 SENATOR PEELER: Does everyone have a copy of
10 that?

11 MS. CASTO: Yes, sir.

12 REPRESENTATIVE MCCOY: And I don't know if
13 everybody would like to have a little bit of time --

14 MS. CASTO: It was in the packet that was
15 right at the front. That was passed out at the
16 beginning of the meeting.

17 REPRESENTATIVE MCCOY: My packet had the
18 letter I sent first, followed by Attorney General's
19 response as the second part of the stapled clip here.

20 I don't know if you all need an opportunity
21 to go through that or take a look at that, but I
22 requested an opinion from the Attorney General based on
23 the criteria that Dr. Smith has given us in terms of
24 how do you establish residency and how do you really
25 intend to decipher where somebody resides or where they

1 intend to reside.

2 And I believe the issues that I laid forth in
3 the letter were very clear from the answers that we got
4 from Dr. Smith. And the response that we did get from
5 the Attorney General basically goes along with my
6 understanding of the law, which his conclusion, if you
7 wanted to skip through the legal aspects of it, the
8 conclusion section of his analysis that was done by an
9 assistant attorney general and approved one other
10 deputy attorney general, basically says that Dr. Smith
11 because of his 4 percent and what has been done and
12 what he's paying taxwise on the Isle of Palms does not
13 defeat the domicile requirement of basically him being
14 able to be qualified as a nominee or a candidate for
15 this particular congressional seat for the MUSC board.

16 And I realize and we spoke last time about
17 the 4 percent versus 6 percent requirement, and that's
18 why I wanted to get a firm handle and a firm grasp on
19 what the law meant and what the intention is meant of
20 the law as to determine where somebody resides. And by
21 getting this opinion, I think that the answer from the
22 Attorney General is clear, that Dr. Smith is a resident
23 and is domiciled and shows every intention other than
24 the 4 percent to be domiciled and that's where his home
25 is. And I would strongly urge the committee to take

1 that into consideration.

2 Not only -- I know I expressed this the first
3 time we spoke, too. That was my understanding of the
4 law when it came down to domicile, but also is clearly
5 the Attorney General's idea in understanding of the law
6 as well.

7 SENATOR PEELER: Representative McCoy, will
8 you show me where it addresses the 4 percent? Where is
9 it?

10 REPRESENTATIVE MCCOY: In my letter or the
11 Attorney General's?

12 SENATOR ALEXANDER: Their response.

13 REPRESENTATIVE MCCOY: Their response.

14 SENATOR PEELER: If what you said is correct,
15 it will make today's hearing very easy.

16 REPRESENTATIVE MCCOY: Sure.

17 SENATOR PEELER: If you will show me where
18 the Attorney General says you don't take 4 percent into
19 consideration.

20 REPRESENTATIVE MCCOY: To be -- to be frank,
21 it doesn't mention, from what I've seen in here, but
22 when it comes down to understanding domicile, I think
23 it even goes further to the fact of the point that I'm
24 trying to make. And if you read on the fourth page
25 underneath where there's an Op. S.C. Attorney General

1 citing of 2008 WL 903972, past that, the next paragraph
2 starts, "The law in South Carolina is clear that a
3 person's residence is his domicile. A person may only
4 have one domicile, and that domicile is where the
5 person has the intention of returning whenever he is
6 gone."

7 It's codified in South Carolina Code of Laws.

8 And the law also authorizes a spouse to have
9 a separate domicile for voting purposes. As you list
10 in the letter as quoted above, there are 11 factors to
11 consider someone's intent in order to ascertain their
12 domicile for voting purposes. All the factors
13 concerning here, and these are factors that have been
14 listed and that we've gone through. And I think it
15 takes me right back to the point that we tried to
16 ascertain from the Attorney General and from my
17 understanding of the law, which is -- which is just
18 this, it's the very first sentence here, it's codified
19 in South Carolina Code of Law, is that it's clear that
20 a person's residence is his domicile, and a person may
21 only have one domicile and that domicile is where a
22 person has the intention of returning whenever he is
23 gone.

24 It's clear that Dr. Smith has the intention
25 of returning to his home, which is not on the Isle of

1 Palms, and has been his home where he's raised his
2 family, has his business. And that's my understanding
3 of the law, Mr. Chairman.

4 SENATOR PEELER: Thank you, Representative
5 McCoy.

6 SENATOR MCGILL: Mr. Chairman, on page 6 --
7 page 6, in the conclusion, "Based on the information as
8 given, it appears your conclusion that Dr. Smith's
9 eligibility to be considered a resident and thus a
10 qualified elector of his Congressional District is not
11 defeated by his wife's location of a separate domicile
12 is correct."

13 What are we talking about in that conclusion?

14 SENATOR PEELER: How do you interpret that?

15 REPRESENTATIVE MCCOY: How do I interpret
16 what? I don't know if I understand your question.

17 SENATOR MCGILL: Page 6, the conclusion from
18 the Attorney General's Office, it says that you can't
19 defeat Dr. Smith because his wife lives somewhere else.

20 REPRESENTATIVE MCCOY: But we've heard
21 testimony, Senator, that his wife -- this is the
22 secondary home, and this is a home that she visits --

23 SENATOR MCGILL: I understand.

24 REPRESENTATIVE MCCOY: -- and they've had
25 since Hugo.

1 SENATOR MCGILL: And I've tried to help you,
2 if you'll just read the sentence, and if you'll to say
3 exactly what it states. It plainly states just because
4 his wife is in one location doesn't mean necessarily he
5 doesn't live in that district. I'm assuming. I don't
6 know what it means.

7 Wes, you're an attorney.

8 SENATOR HAYES: This is confusing to me.

9 REPRESENTATIVE MCCOY: I'm just trying to --

10 SENATOR HAYES: It seems to me, though, that
11 the thing we've got to wrestle with, and don't
12 misunderstand me, you know, I'm not saying anybody did
13 anything wrong. I understand exactly what went on
14 here, and I think it's perfectly fine. Happens all the
15 time. It's just we have to go through this.

16 But seems to me that, you know, on the
17 reading of the 4 percent, that if you get the 4
18 percent, it's kind of establishing that -- and you can
19 only have one in the state. That that's -- you're
20 claiming that and -- and for the purpose of that and
21 your family, that's your residence. And if he's saying
22 Sumter is the residence, and I have no question in my
23 mind that Sumter is his home. I mean, he is -- he
24 is -- he may owe some back taxes because you can't have
25 but one 4 percent. If he's been claiming that, I

1 understand he just moved his driver's license and
2 everything back. You can't have but one, you know. So
3 that might be an issue, too.

4 Because I think that -- I think this is going
5 to have far reaching effects because, I mean, that's
6 kind of been a bright-line thing that we've had in this
7 -- from my understanding because I'm new on the
8 committee, and maybe it's never come up before. But I
9 think it's kind of an issue that we could be setting a
10 precedent.

11 SENATOR PEELER: Representative McCoy.

12 REPRESENTATIVE MCCOY: I'm sorry, Mr.
13 Chairman. Thank you. I think you made an excellent
14 point, and I'm certainly not trying to extend any sort
15 of favoritism to anybody or extend a certain precedent
16 to anybody, and I'm certainly not trying to change
17 anything because I'm brand-new to this committee as
18 well.

19 But the issue that came up obviously is a
20 unique one, and I think it's something that I think we
21 need to deal with and kind of establish a certain
22 precedent sooner or later because I think it will
23 probably come up again.

24 But the clear-cut issue was in the letter
25 that I did send to the Attorney General, I did explain

1 fully the fact of where the 6 percent versus the 4
2 percent was. They knew that information, had that
3 information, and took it into understanding and still
4 gave us their conclusion that they came up with in
5 their opinion.

6 SENATOR PEELER: This issue has been before
7 the committee before, and we've wrestled it before on
8 the intent of where the residence is. And the
9 committee, correct me if I'm wrong, that's what we use
10 as the definition of your residence is where you pay 4
11 percent tax.

12 I think that it's clear that in order for you
13 to receive the 4 percent tax versus the 6 percent,
14 there are certain things that you have to do and have
15 to agree to to qualify. And must register to vote
16 there, must have your drive's license there. What
17 else?

18 MS. CASTO: The other was the address you
19 have on your latest income tax.

20 SENATOR PEELER: On income tax.

21 MS. CASTO: And register your vehicles.

22 SENATOR PEELER: And I think I heard you say,
23 Dr. Smith, did you say you voted absentee? Did you
24 vote absentee in the 1st Congressional District or the
25 5th? You voted absentee.

1 DR. SMITH: You mean the last time I voted in
2 Isle of Palms, whatever that is?

3 SENATOR PEELER: Yes, sir.

4 DR. SMITH: But my federal taxes are Sumter
5 and my car registration is Sumter. Again, my wife owns
6 the house. That's where 4 percent, you know.

7 SENATOR PEELER: But you do understand that
8 part about your wife --

9 DR. SMITH: Not really.

10 SENATOR PEELER: -- owning the house but
11 you're the spouse.

12 DR. SMITH: But I think it's been clear
13 from -- it's where I live.

14 MS. CASTO: According to the 4 percent, it is
15 you and your spouse are one unless you're legally
16 separated. And you can have only one 4 percent.

17 DR. SMITH: But I think that later said --
18 didn't it say --

19 REPRESENTATIVE MCCOY: That's my
20 understanding, too, with the Attorney General having
21 the prior knowledge of the 4 versus 6 percent and
22 knowing that it was his wife's house, you know, the
23 conclusion says that Senator McGill, I think read as
24 well, kind of -- kind of makes the point that I'm
25 trying to make. And it says Dr. Smith's eligibility to

1 be considered a resident and thus a qualified elector
2 of this congressional district is not defeated by his
3 wife's location of a separate domicile.

4 And I think that is probably the most
5 powerful sentence there could be in that conclusion
6 based on the law that we've also read in here as well.

7 SENATOR ALEXANDER: Mr. Chairman.

8 SENATOR PEELER: Senator Alexander.

9 SENATOR ALEXANDER: And I think the world of
10 Dr. Smith, and I think it's good that we're having this
11 discussion. I'm more concerned about where we go from
12 here on future elections. Because as you said, this is
13 not going to be the last time. We've dealt with it
14 before, and the standard has been the 4 percent. But
15 even on this conclusion, it says "Based on the
16 information as given, it appears your conclusion --" I
17 assume that's your -- speaking of your conclusion --

18 REPRESENTATIVE MCCOY: Sure. And my
19 conclusion was listed in the letter that --

20 SENATOR ALEXANDER: -- that Dr. Smith is
21 eligible to be considered. So that's the other part of
22 that sentence "-- and thus a qualified elector of his
23 Congressional District is not defeated by his wife's
24 location of a separate."

25 So I guess even -- so basically what we're

1 saying is it's going to be far reaching, too, I would
2 think, to other things like Public Service Commission
3 and all these other ones that really residency is not
4 going to be an issue, it's going to be wherever we say
5 it is in the future.

6 REPRESENTATIVE MCCOY: Well, and I think when
7 you do examine any sort of races in a Congressional
8 District that, you're right, I mean, that person has to
9 reside in that congressional district. But when it
10 comes down to --

11 SENATOR ALEXANDER: I don't think so.

12 REPRESENTATIVE MCCOY: Sir?

13 SENATOR ALEXANDER: I don't think the law
14 says you've got to reside --

15 REPRESENTATIVE MCCOY: Well, if it's not an
16 at-large seat. And if it is an --

17 SENATOR ALEXANDER: I'm talking outside of
18 these. I'm talking about Congressional or Senate or
19 House or anything.

20 REPRESENTATIVE MCCOY: I'm not sure. I'm not
21 sure what the requirements are by law there. But, you
22 know, I think that what we're doing here, and I think
23 we need to take a vast look at what the -- what this
24 board's purpose is and what this board is supposed to
25 do. And when it comes down to Dr. Smith putting

1 himself forward for public service, I think that also
2 needs to be taken into account.

3 SENATOR ALEXANDER: I agree with that.

4 REPRESENTATIVE MCCOY: And somebody who has
5 put himself forward and not only saying, "I want to
6 take the time to serve this board that I care about --"

7 SENATOR ALEXANDER: I don't want to
8 interrupt.

9 REPRESENTATIVE MCCOY: Sure.

10 SENATOR ALEXANDER: But my point is I want to
11 take it out of the personalities of Dr. Smith and his
12 family and put it in the provisions of going forward in
13 other circumstances.

14 REPRESENTATIVE MCCOY: Sure.

15 SENATOR ALEXANDER: So -- because I think the
16 world of Dr. Smith. And it keeps coming back to
17 specifically his -- and I agree from that stand. He
18 serves well and everything. So, you know, I want us to
19 get out of that. And if what we're saying -- I guess
20 that's my point is, what are we saying the residency
21 requirements are going to be going forward?

22 REPRESENTATIVE MCCOY: And my understanding
23 of it is, you know, again, looking at the law, we have
24 to look at where the person intends to reside. And
25 that's vague. And I don't know whether we can go in

1 there necessarily and change the law. But when it
2 comes down to having a unique situation like we have
3 here, I don't know if the answer is to examine it on a
4 case-by-case basis and take a look at certain factors
5 and certain indicators that tend to point where
6 somebody resides. Because I don't know if you can say
7 with absolute certainty in certain instances, hey, this
8 person does or does not reside here without taking into
9 consideration every single factor that Dr. Smith or
10 others who would come forward later will have to
11 provide.

12 SENATOR PEELER: Representative McCoy, this
13 is not the point I'm trying to make. We had a
14 candidate before and in order for him to pass the 4
15 percent question, he had a very similar situation.

16 SENATOR ALEXANDER: Right.

17 SENATOR PEELER: He changed his residence,
18 his 4 percent back to his residence and not to his
19 beach home -- from his beach home to his residence.

20 SENATOR ALEXANDER: So he could resolve it
21 that way.

22 SENATOR PEELER: And so we're not plowing new
23 ground. This -- we've pretty much settled on if you
24 pass the 4 percent muster, it's wherever the 4 percent,
25 that's where your residence is.

1 REPRESENTATIVE MCCOY: And I understand. I
2 wasn't trying to say that this committee is plowing new
3 ground. I understand we've been here before. I'm
4 trying to say that every person's situation is
5 different and everybody brings something different to
6 the table when it comes to different qualifications as
7 to where they live. And that's what I was hoping to
8 point out, was trying to make with Dr. Smith.

9 But, you know, I think we have an answer, and
10 I think it's laid out in front of us with the Attorney
11 General's conclusion and whether we take that forward
12 with the committee as to how we approach this issue,
13 Mr. Chairman, obviously, I leave that in your hands.
14 But that's my opinion. I think it's the Attorney
15 General's opinion, and I'd like to see Dr. Smith
16 qualified.

17 SENATOR MCGILL: Chairman, let me say this
18 quickly. I know that Senator McElveen is saying he's
19 told me repetitiously that Dr. Smith is a resident of
20 Sumter County. And, of course, he is the living,
21 breathing senator from that district. And the thing
22 is, is that the question, though, was asked a week or
23 two weeks ago when we were up here going through these
24 90 different people, they said if it wasn't Dr. Smith,
25 if it wasn't Murrell Smith's father, what would you do?

1 What would you do generically?

2 And, of course, I know what that answer is,
3 and I know what it is right now. The bad part is, I'm
4 like everybody seated at the table, we don't want to do
5 anything to hurt Murrell Smith in any way. I'm just
6 telling you just what it boils down to.

7 The thing is, is that the Attorney General
8 says repetitiously that just because somebody's spouse
9 is somewhere doesn't necessarily mean that's their
10 domicile location. And I'm reading that. But they
11 have said that consistently. But also I know that
12 three of my last five opponents claim they lived in the
13 Senate District when, in fact, they did not. They
14 lived out of the Senate District.

15 I just never raised the issue, never pushed
16 the issue, we just ran against these people as if they
17 lived in the district. But probably could have got
18 them disqualified.

19 The thing is, this is absolutely not the
20 first time. Because when it came up before, it was
21 stressful as night and day because we didn't know what
22 to do. Honest to Lord, did not know what to do. But
23 it worked itself out. And that was the reason a week
24 ago it was so stated Dr. Smith needs to come back with
25 other areas showing that he is absolutely a resident of

1 that Sumter area.

2 And what is amazing is we always go back to
3 that 4 percent because that's what it was under the
4 former chairman in the former committee that was there.

5 So how do you deal with that issue? Barring,
6 as you said, friends and personality, how do we deal
7 with this? And the problem is, what would we do --
8 what do we do? That is the problem.

9 SENATOR MCELVEEN: Mr. Chairman, can I say
10 something on his behalf?

11 SENATOR PEELER: We haven't before. I'm
12 absolutely sure that Dr. Smith can vouch for himself.
13 There's no question about his reputation in Sumter.
14 There's no question what you do for the folks in
15 Sumter. There's no question that you intend to live in
16 Sumter. The question is and the only question is --

17 SENATOR MCGILL: You're right.

18 SENATOR PEELER: -- your participation in the
19 4 percent versus the 6 percent. That is the only
20 question. Sadly, that's a side question, but it's an
21 important question, and it's something that this
22 committee has settled on in the past.

23 Now, if this committee, by action today, if
24 we are going to change that, then we'll have to change
25 it. But I think you're going contrary to the law when

1 you do.

2 The law states, Dr. Smith, that under your
3 scenario, your residence is in Isle of Palms. If you
4 changed it or your wife changed it back to Sumter, your
5 residence would be in Sumter. According to the law,
6 and I'm not a lawyer, but the way I read it, that's
7 what it says. That's exactly what it says.

8 DR. SMITH: I don't read it that way. I
9 mean, excuse me.

10 SENATOR PEELER: And that's why it was not
11 easy, but that's why the committee, so we wouldn't have
12 to go through this --

13 DR. SMITH: I've read some of the law, and I
14 don't think that's the interpretation of the law. But
15 I'm not a lawyer either. I think it's where you intend
16 to live, where I say I live. You're picking out one
17 factor that -- you all have all the rights. I mean,
18 you know, I don't have any rights of that. But I've
19 given you as much information about 4 percent. I've
20 given you ten times more. Why you pick one thing is --
21 you say it's legal. What I read, I don't believe
22 that's what the law says that your residency is where
23 you pay 4 percent. I think that's -- that is a tax
24 deal my wife did and a lot of people in this state do
25 to help their situations that you folks might want to

1 remedy one day.

2 REPRESENTATIVE MCCOY: If I could, Mr.
3 Chairman.

4 SENATOR PEELER: Representative McCoy.

5 REPRESENTATIVE MCCOY: Thank you, Mr.
6 Chairman. And to answer some of your questions, too,
7 Senator McGill, obviously when you run for a senate --
8 a state senate seat or you run for a state house seat,
9 there are residency requirements. And it probably
10 doesn't matter where these folks live, they can't beat
11 you anyway.

12 But, you know, we have a unique situation in
13 the 1st district recently, too, where we had a guy who
14 made the runoff who actually lived in the 6th district
15 for the congressional seat. So it's obviously not a
16 rule on the national level. And I know we're dealing
17 with grounds that we've already covered in this
18 committee before, but it's a new issue to me. And what
19 I'm bringing to the table is my understanding of the
20 law and my understanding of establishing and examining
21 residential and domicile issues.

22 And when you look at criteria, you know, I
23 read it as being against the law to say it's one
24 factor, it's 4 percent, and that's it. And if that's
25 the way the committee has done this in the past,

1 respectfully I think it's flawed. I mean, I think it
2 should be addressed going forward because that's not
3 the only way to examine domicile is by 4 versus 6
4 percent.

5 And I think what we have here and what's
6 clear and concrete is a law that's been established and
7 then brought down by the Attorney General. And you
8 brought up a pretty interesting point, too, Senator
9 McGill when you said, Hey, this is Murrell Smith's
10 father, and we want to help Murrell. We all know
11 Murrell. We work with Murrell every day. And I'm new
12 to this committee. I'm new to serving in the House of
13 Representatives. And when I look at this, I don't know
14 Dr. Smith. The first time I actually laid eyes on him
15 was when we screened him two weeks ago during our
16 furlough.

17 And I think everybody, it doesn't matter if
18 it's Dr. Smith, it doesn't matter if it's Dr. Johnson
19 that comes in here and wants to serve on the MUSC
20 board, I think everybody should be given that fair
21 shake and given that fair qualification and not just
22 to -- to answer your question, this would have
23 happened, I think we would have gone this route and
24 gotten an opinion even if it wasn't Dr. Smith.

25 So I respectfully, Mr. Chair, you know, if we

1 need to change the way we look at this from going
2 forward today, I don't know if that's something we take
3 up on a separate day or a separate matter with just the
4 committee. But respectfully, I do think it's flawed if
5 you're just looking at 4 versus 6 percent. And that's
6 my honest interpretation being new to this committee
7 because there are so many other factors that establish
8 domicile, and it's been laid out in the opinion here.
9 It's been laid out in the law books that I'm still
10 owing money right now for my legal education.

11 So that's how I look at it, Mr. Chairman. I
12 respectfully, at the appropriate time, I would move to
13 alter that today if that was the appropriate course to
14 take. Then, again, I'm new, and I want to make sure
15 that's done the appropriate way as well.

16 SENATOR PEELER: Let me speak to Senator
17 McElveen. The reason we didn't allow you to speak, we
18 had a lady come before us on -- a different candidate,
19 a different seat, and we received her information in
20 writing and didn't allow her to speak. So I think the
21 precedent shows that that's why.

22 SENATOR MCELVEEN: Was she serving in the
23 Senate, Mr. Chairman?

24 SENATOR PEELER: I'm sorry?

25 SENATOR MCELVEEN: Was she serving in the

1 Senate?

2 SENATOR PEELER: No.

3 SENATOR ALEXANDER: Mr. Chairman, I would
4 like to let the record reflect we do have a letter from
5 Mayor Joseph McElveen, who is the father of Senator
6 McElveen, that speaks to this matter. I'm sure that
7 it's probably saying very much what the Senator has to
8 say.

9 REPRESENTATIVE MCCOY: Mr. Chairman.

10 SENATOR PEELER: Representative McCoy.

11 REPRESENTATIVE MCCOY: Thank you, Mr.
12 Chairman.

13 And I know Dr. Smith mentioned in the initial
14 part of his testimony about other things that he's
15 submitted to the committee. Is there a way that we can
16 take a look at that as well because I just wasn't aware
17 of what he sent in. He said it was some letters from
18 some folks in town. I just don't know if it was other
19 qualifiers that would help us take a look at residency.

20 MS. CASTO: It's behind tab A in your
21 notebook.

22 REPRESENTATIVE MCCOY: Oh, it is?

23 MS. CASTO: The whole packet that he --

24 REPRESENTATIVE MCCOY: Okay. Thank you so
25 much.

1 SENATOR PEELER: Representative McCoy, you
2 could bring me 10,000 letters --

3 REPRESENTATIVE MCCOY: Yes, sir.

4 SENATOR PEELER: -- a hundred thousand
5 letters, it wouldn't make me like him more or less. I
6 respect Dr. Smith.

7 REPRESENTATIVE MCCOY: Yes, sir.

8 SENATOR PEELER: I think he lives in Sumter,
9 but his 4 percent is in Isle of Palms. And he signed
10 that that was his place of residence to get the 4
11 percent. That's the only thing we're talking about
12 today.

13 REPRESENTATIVE MCCOY: Yes, sir.

14 SENATOR PEELER: And that's -- whether we
15 settle that now or later, that's the only issue --

16 REPRESENTATIVE MCCOY: Yes, sir.

17 SENATOR PEELER: -- as far as I'm concerned.

18 REPRESENTATIVE MCCOY: And I think that
19 you're right. I think we are -- Mr. Chairman, we are
20 hinging this decision based on 4 versus 6 percent as
21 has been done by this committee, and I understand
22 that's the issue. But what I think this opinion does
23 is shed light on the fact that there are other criteria
24 we need to examine as well. And I think that this
25 could be a case of first impression here where we're

1 actually using other criteria to move forward. So we
2 can do that later on down the line, as well, Mr.
3 Chairman, when it comes up with other screenings in the
4 future.

5 SENATOR PEELER: Representative Henderson.

6 REPRESENTATIVE HENDERSON: The thing that
7 confuses me is that this opinion does not address the 4
8 percent, and I don't know if that -- the Attorney
9 General obviously is, you know, the Attorney General
10 for a reason, but I don't know if he wasn't
11 specifically asked to address that or chose not to
12 address that, but that if he were to come straight out
13 and answer that particular question and clear that up
14 for us, I think we wouldn't be having this discussion
15 because we would know clearly exactly what he said.

16 SENATOR ALEXANDER: We need clarification
17 from the Attorney General.

18 REPRESENTATIVE HENDERSON: That gives me
19 concern. And the other thing that gives me concern is,
20 again, and I hate to, you know, argue with an attorney
21 because I took one administrative law class in school,
22 but --

23 REPRESENTATIVE MCCOY: Learn something new
24 every day.

25 SENATOR HAYES: -- all these 11 factors are

1 things that you have to establish to get the 4 percent.
2 You have to do this to get to that point. And I think
3 that's what makes -- that makes me confused because
4 this is established at some point to get there, but now
5 it's established back. And so that's what I think, at
6 least for myself, are trying to grapple with how that
7 comes in to factor with whole 4 versus 6 argument.

8 REPRESENTATIVE MCCOY: If I could, Mr. Chair,
9 answer that.

10 SENATOR PEELER: Representative McCoy.

11 REPRESENTATIVE MCCOY: To answer your
12 question directly, Representative Henderson, it was
13 addressed. The 4 versus 6 percent was addressed. It
14 was laid out in the fact portion of my letter to the
15 Attorney General, where it says -- actually in the
16 first sentence -- in the second sentence of the second
17 paragraph that says this is what's going on. And
18 Chairman Peeler is right in that that's the crux of
19 this argument is the 4 versus 6 percent.

20 And Alan Wilson knew that information, had
21 that information. And what's -- what's telling to me
22 as an attorney, is that knowing this information and
23 knowing how attorneys pool information together and
24 they pool all the factors together, it still wasn't a
25 factor in his conclusion in his outcome. He had that

1 there, he knew that there, and still came to the
2 conclusion that based on the other factors, Dr. Smith
3 was a resident in Sumter as opposed to the Isle of
4 Palms. And I think that's what's extra telling to me
5 without even having to mention that, having known that
6 that's a part of the fact pattern that we're dealing
7 with.

8 REPRESENTATIVE HENDERSON: Okay.

9 SENATOR PEELER: Representative Whitmire.

10 REPRESENTATIVE WHITMIRE: Thank you,
11 Dr. Smith, for coming again.

12 DR. SMITH: Yes, sir.

13 REPRESENTATIVE WHITMIRE: I like you. I know
14 your son is here.

15 Do the time restraints require us to make a
16 decision today?

17 MS. CASTO: If you all want this seat on the
18 election, uh-huh.

19 REPRESENTATIVE WHITMIRE: All right. Well --

20 MS. CASTO: It can be delayed, but ...

21 REPRESENTATIVE WHITMIRE: Well, I was just
22 wondering about if we could get a specific 4 percent
23 ruling from the Attorney General.

24 REPRESENTATIVE HENDERSON: That 5th
25 Congressional seat, when are we doing that then?

1 MS. CASTO: We have scheduled it the same
2 time that there will be a judicial election on May
3 15th.

4 REPRESENTATIVE HENDERSON: Okay.

5 SENATOR PEELER: So do you all want to
6 postpone that one until then?

7 REPRESENTATIVE MCCOY: Let me speak to that.

8 SENATOR PEELER: Representative McCoy.

9 REPRESENTATIVE MCCOY: Thank you,
10 Mr. Chairman.

11 With all due respect, you know, I think we
12 have an answer to a 4 versus 6 percent because this was
13 part of this fact pattern and came out as a fact
14 pattern. Again, just like I just spoke to
15 Representative Henderson's concerns, it played no part
16 and it had no part in the Attorney General's conclusion
17 because he took into light or into account other
18 factors that were out there that Dr. Smith provided.

19 And what concerns me is that we all sit
20 around the table and we say, "We know you live here.
21 We know you live in Sumter. We know you reside there,
22 but yet we still have this barrier that's going on even
23 when we have an opinion from the Attorney General."

24 And I'm not trying to make waves. I'm
25 certainly not trying to do that, I'm trying to get a

1 firm grasp of what we're trying to accomplish here,
2 which is 4 versus 6 percent has been done in the past,
3 and that's how the criteria has been used. We've had
4 concerns from Representative Whitmire and
5 Representative Henderson that maybe we should get a
6 firm ruling of 4 versus 6 percent, is that the
7 absolute? And I think we have. I think we have it
8 here. And that's how I interpret this opinion, that
9 that's how I interpret this order, and that's how I
10 understand the law to be interpreted. So I'd like to,
11 you know, leave that as one of my final points here,
12 Mr. Chairman.

13 REPRESENTATIVE WHITMIRE: Mr. Chairman.

14 SENATOR PEELER: Representative Whitmire.

15 REPRESENTATIVE WHITMIRE: I think we've all
16 discussed, I think probably all -- we know where we're
17 going to go with this. So at this time, unless
18 somebody else has any questions, I'd like to move for a
19 favorable report.

20 REPRESENTATIVE MCCOY: I would like to second
21 that.

22 SENATOR PEELER: Motion is a favorable report
23 by Representative Whitmire, seconded by
24 Representative McCoy.

25 Any other discussions?

1 SENATOR MCGILL: Let me say one last thing,
2 if I can.

3 SENATOR PEELER: Senator McGill.

4 SENATOR MCGILL: This has been quite an
5 experience for me. This last meeting we had a week or
6 two weeks ago, we talked in executive session and
7 informed this entire group.

8 SENATOR PEELER: You can't say what we talked
9 about in this --

10 SENATOR MCGILL: What is said in executive
11 session, don't go out of this room and talk about it.
12 Well, sad to say, words went out of this executive
13 session. And we can be mild or we can be sweet and we
14 can do anything we want to do, but I'm going to tell
15 you something. I got a call from my daughter saying
16 her husband got a phone call from a member of the
17 House, was not Murrell, jumped him saying -- even said
18 MUSC funding could be at risk if we didn't help.

19 I wasn't going to say this today but till
20 awhile ago when you inflamed yourself. And I thought
21 about that thing and I said, you know, I ought to come
22 up here and work just as hard as I can against
23 Dr. Smith just because of what one person did out of
24 executive session.

25 And I can tell you right now to have my

1 daughter call me emotional, upset, saying she got a
2 call from a leader in the House of Representatives,
3 wasn't the Speaker, was not Murrell Smith, I'll tell
4 you that. But for that kind of action to occur in the
5 threat of not giving funding to MUSC because of what's
6 going on in this room and what came from executive
7 session, that's a pretty dang-gone bad disgrace.

8 I never thought we would get in that posture
9 of games that people play. I don't play them, never
10 have played them. I can tell you this, Murrell and I
11 talked four weeks ago, nothing in detail, nothing
12 concrete. He didn't ask me to do anything for his
13 father. As a matter of fact, it was the room below
14 this room where we spoke.

15 But I'm going to tell you something, this is
16 a lot bigger than just saying I make a motion and I
17 make a second. And it's tricky and we just go down the
18 road when you got the spirit of some of these people
19 have been hurt.

20 Of course, I plan to talk to your person that
21 called my son-in-law. And it's not a laughing matter.
22 It's not a -- something that occurs that should occur.
23 If that's the side of politics of Columbia, I'm not
24 interested in it. I've never heard of this in the 25
25 years I've been in Columbia. But I can tell you this,

1 Chairman, I could have very easily called SLED and
2 called some more people. I didn't do it because what I
3 would much rather have done is come here to this table
4 today and vote my conscience of what I felt was the
5 right thing to do.

6 When I even started the meeting, I hadn't
7 seen this stuff. And I read that one sentence, and it
8 plainly states that his wife's domicile may not be his
9 domicile. Plainly states that. Throws a gray area. I
10 threw that bone at you trying to help you. But you
11 consistently tried to keep throwing back at me issues.

12 And I'm going to tell you something, through
13 these processes you learn what's going to happen and
14 what's going to go on, but generally what we do is we
15 listen to testimony, then we vote and we move forward.
16 And we don't conjure votes before you come in a meeting
17 because it's just not the right thing to do.

18 But the fact of the matter is, there is no
19 question, Chairman, in my mind this man lives in
20 Sumter. No question from the testimonies of the
21 Senator of Sumter to me, not to this committee.

22 But I also can tell you this, that I'm not
23 sure his family even supported Senator McElveen in his
24 reelection. But for him to come in here saying he's a
25 resident, to me, it means something to me. I've always

1 liked Representative Smith. He's always been very
2 ethical, period. But I can tell you right now that if
3 I came in here today with what was on my mind a week
4 ago when I got a phone call out of Columbia, I can tell
5 you now I would be asking this committee turn it down
6 and don't support it. But I don't hold this man
7 responsible for something like that.

8 So with that, I share with you that,
9 Chairman, I'm going to probably vote for Dr. Smith.
10 Only because I really with all my heart believe he's a
11 resident at 4 percent, 6 percent. In the past has
12 knocked a lot of people out. But I also know this,
13 that if it wasn't you, I hate to say it, I probably
14 would be voting against you. But I'm voting for you
15 only because half my family lives in Sumter and they
16 know you and they attest that you're a resident of
17 Sumter County.

18 SENATOR PEELER: Thank you, Senator McGill.
19 Senator Alexander.

20 SENATOR ALEXANDER: For further discussion, I
21 think to a point -- and was not aware of any of that
22 that you've just commented on. How do we rectify what
23 has been done is the standard if the votes are there to
24 change things today? What about these folks in the
25 past that have been not found qualified because of the

1 clear-cut 4 percent versus the 6 percent? I'm
2 concerned about changing that precedent from that
3 standpoint.

4 I don't know what the new standard is going
5 to be. Please tell me what the standard is, then, if
6 it's not going to be the 4 percent versus the 6
7 percent.

8 SENATOR MCGILL: What is the recommendation
9 of staff? What is the recommendation of staff?

10 SENATOR PEELER: Staff doesn't have a
11 recommendation. This is why we are getting paid.

12 SENATOR ALEXANDER: Mr. Chairman, I know
13 we've -- I know we've got a motion and a second and
14 we're in discussion. I think -- I don't know why we're
15 rushed. I'd like to get a clarification on the 4
16 percent versus 6 and make sure that they spoke to that
17 issue in the letter that was presented.

18 SENATOR PEELER: I don't want to put words in
19 Representative Whitmire's mouth because I think that's
20 what you were trying to do.

21 REPRESENTATIVE WHITMIRE: That's what I
22 wanted to do originally.

23 SENATOR PEELER: You were asking about the
24 time sensitivity. We could carry this over and try to
25 make it to where the 5th District, Coastal Carolina

1 election, have it on that day.

2 REPRESENTATIVE WHITMIRE: I would feel a lot
3 better if I knew the clarity there, so I withdraw the
4 motion.

5 SENATOR ALEXANDER: And if they -- Mr.
6 Chairman, I mean to take a lesson from that
7 standpoint --

8 REPRESENTATIVE WHITMIRE: Yeah.

9 SENATOR ALEXANDER: I mean, that's what we've
10 been hinging on. If we're going to change it, I would
11 rather them say that we've got the ability to change it
12 based on that and not for a specific situation. But
13 it's the right policy for us to have going forward.

14 REPRESENTATIVE WHITMIRE: Mr. Chairman, that
15 will give us clarity moving forward, so we won't have
16 this -- hopefully this again.

17 SENATOR PEELER: Dr. Smith, it was mentioned
18 earlier about you supporting a certain candidate in
19 Sumter. You couldn't, could you?

20 DR. SMITH: Couldn't vote for Murrell.

21 SENATOR PEELER: You couldn't even vote for
22 your own son.

23 DR. SMITH: But I can now.

24 SENATOR PEELER: So if he lost by one vote,
25 you really would have been in trouble. But you

1 follow -- you follow our line of thinking there about
2 the 4 percent and the 6 percent. The 4 percent didn't
3 bother you when it came to voting, but it bothers you
4 now. That just -- and that bothers me. But all that,
5 I think we know kind of where we are.

6 DR. SMITH: Yeah. I just think that, again,
7 from that letter that he just read, I just think it's
8 pretty clear, just personally, that what my wife does
9 and where she elects does not always reflect where I
10 live. And I think that that's what I interpret. But
11 that's okay. I mean, you all are doing the right
12 thing. Whatever --

13 SENATOR PEELER: Senator Hayes.

14 SENATOR HAYES: Did someone, in fact,
15 actually change their property from 4 percent to 6
16 percent in the past?

17 MS. CASTO: Yes, sir.

18 SENATOR PEELER: A candidate before had very
19 similar circumstances.

20 SENATOR HAYES: Would you be willing to do
21 that, to change your property from 4 percent to 6
22 percent?

23 DR. SMITH: Well, actually, I did look at
24 that and believe it or not, I'm paying \$8,000 in
25 Sumter, and it really saved me overall \$2,000.

1 Would I do that to be on the board? I mean,
2 you know, I'm not -- I probably would if that's what
3 you folks required me to do. I kind of still feel like
4 I live in Sumter, and I just have a problem with it.

5 I'm offering myself -- I've told you I live
6 in Sumter. I think that -- everything that I read in
7 these letters say that I live in Sumter. And to pick a
8 4 percent or 6 percent, you all picked that. I mean, I
9 didn't pick it. You may be a hundred percent correct.

10 SENATOR PEELER: Dr. Smith, we picked it
11 before you were a candidate.

12 DR. SMITH: No, I understand that. I just
13 said --

14 SENATOR PEELER: I don't want you to think
15 while we're picking it, we're not picking on you.

16 DR. SMITH: No. I absolutely never thought
17 for a second that because I wouldn't be sitting here if
18 I thought that.

19 SENATOR PEELER: Thank you.

20 SENATOR MCGILL: Mr. Chairman.

21 DR. SMITH: I've got no issue with that.

22 SENATOR MCGILL: Mr. Chairman, let me say
23 this. I'm going to be open. I want to hear what the
24 Attorney General says as it is 4 or 6 percent. And I'm
25 going to be open. I'm going to be open-minded to this

1 vote when it comes over. I don't know which way I'm
2 going to vote. Let me say that.

3 SENATOR PEELER: Senator Hayes.

4 SENATOR HAYES: I'm going to be open, too.
5 I'm not going to preconceive. But I think we need
6 to -- we need to couch the question that it's not
7 necessarily if we wanted to go the other way, would we
8 be within the law, but if we wanted to use the 4
9 percent, would that be within the law? I think that
10 there's kind of a gray area.

11 I think as far as precedent, I think in the
12 future, if we change the precedent from 6 percent to
13 4 -- or 4 to 6 to some other, just looking at all the
14 different factors, I think, you know, that could be
15 putting a bigger burden on this committee to frankly to
16 try to delve into that on a lot of things.

17 So I think if the Supreme Court -- I think we
18 can ask -- not the Supreme Court, but the Attorney
19 General, would we be within the law if we decided to
20 use that, or are we clearly outside the law? Because
21 that's a bright line of something we can tell
22 everybody. And if you want to get in line, I mean,
23 obviously shifted his voter registration and everything
24 back in an attempt to be on the board. And I commend
25 him for that.

1 But what we said in the past, you've got to
2 change that property because you only get one. You and
3 your spouse and wherever it is, that's been a bright
4 line we've used.

5 Now, if we're out of line using that as a
6 bright line, and the Attorney General says we're out of
7 line, but I kind of read this as saying, if you don't
8 want to do that, you don't have to do that. There's
9 nothing saying that if you don't want to save the 4
10 percent, 6 percent, this committee wants to look at
11 other factors, I think we can. But by looking at 4
12 percent or 6 percent, are we out of line? Because
13 that's a clear bright line that we can tell everybody
14 in advance and as a way they can cure it, if they want
15 to.

16 That's just something to think about. When
17 we ask the opinion from the Attorney General, are we
18 within our rights to use that, or is that clearly out
19 of line? Because he said that we don't have to use
20 that. I mean, I can read that here. I know what he's
21 going to say. He had the facts. He not only put it in
22 your letter, he put it in his letter, the fact
23 situation. He knows the facts. But I think that what
24 I'm not real clear on, the 4 percent, is that are we
25 out of line using that? If we're out of line using

1 that, then I'm going to vote that we need to change it.

2 SENATOR ALEXANDER: Absolutely.

3 SENATOR HAYES: But if we're not out of line,
4 it's a clear bright line that we can tell everybody.
5 And there's a way to remedy it. And, you know, we made
6 people remedy it in the past. But just because it's
7 going to make our job easier, I don't want to
8 necessarily cause Dr. Smith \$2,000 either. But, you
9 know, we need to be consistent on that.

10 SENATOR PEELER: Let's look at the calendar.
11 When do we -- when will we need that opinion and when
12 will we need to meet back to make a decision?

13 MS. CASTO: I would suggest that you can
14 write the opinion -- the letter to the AG this week and
15 we will get with them and see the earliest. Hopefully
16 next, week we may have an opinion back from them.

17 SENATOR PEELER: Well, we have other
18 candidates chomping at the bits. Can we give a report
19 on all of those?

20 MS. CASTO: Yes, sir.

21 SENATOR PEELER: Okay. So it wouldn't slow
22 up the others.

23 MS. CASTO: No, sir. We will go forward with
24 everyone except the 5th Congressional District from
25 MUSC.

1 SENATOR PEELER: Okay. So if there's no
2 objection, that's what we'll do. We'll carry this over
3 one more time, Dr. Smith. And I appreciate your
4 patience.

5 DR. SMITH: Yes, sir.

6 SENATOR PEELER: We'll carry this over one
7 more time, ask for the opinion. Subject to call of the
8 Chair, I'll call the committee back.

9 MS. CASTO: As soon as you have the opinion.

10 SENATOR PEELER: Absolutely as soon -- as
11 soon as possible.

12 DR. SMITH: Can I just ask one question?

13 SENATOR PEELER: Yes, sir.

14 DR. SMITH: Just so I understand. Is it the
15 clarify that it does not disqualify me, or is it a
16 clarification that you can use anything -- you can use
17 that?

18 SENATOR PEELER: Senator Hayes, do you want
19 to -- you're my wise attorney.

20 DR. SMITH: I'm not a lawyer, but I heard
21 what you said.

22 SENATOR HAYES: I am a lawyer, and I don't
23 know. But I think that we ask the Attorney General
24 would be -- be within the law if we wanted to use the 4
25 percent as a criteria, as the bright line as to what

1 we're going to set as residency. Is that a violation
2 of your rights or the law or whatever else for us to
3 use that bright line?

4 If that violates your rights for us to use
5 that bright line, then we can't do it. I mean, we're
6 violating his rights. You know, other than a court
7 telling us that, I think that's about all we can do is
8 get an Attorney General's opinion. If we're okay to do
9 that, but we don't have to.

10 I kind of read this as saying, you know, 4
11 percent is not the only criteria you can use if you
12 don't want to.

13 DR. SMITH: Right.

14 SENATOR HAYES: And I think everybody knows
15 the situation. You're a Sumter doctor, you're a Sumter
16 resident, and everybody proud from Sumter to have you
17 there. And we just got to set a precedent. That's
18 what we're worried about in the future, whether we want
19 to set that as a bright line or whether we got to
20 change it.

21 SENATOR PEELER: Dr. Smith, you asked me and
22 as a non-lawyer, it says -- for purposes of sub line
23 item B of this item, quote, A member of my household
24 means the owner-occupant, spouse, except when that
25 spouse is legally separated from the owner-occupant.

1 I want him to tell me, what does that mean?

2 DR. SMITH: I'm not separated --

3 SENATOR PEELER: I want him to tell me what's

4 that mean.

5 DR. SMITH: I don't know. I'm not separated.

6 I live in Sumter.

7 SENATOR PEELER: Thank you, sir.

8 DR. SMITH: Thank you.

9 SENATOR PEELER: Thank you, Dr. Smith.

10 DR. SMITH: Thank you.

11 SENATOR PEELER: Next.

12 MS. CASTO: We have four candidates Wil Lou

13 Gray Opportunity School.

14 Mr. Sims, you needed to get back to

15 Hartsville, so we're going to take you first.

16 MR. SIMS: I sure appreciate the opportunity

17 to be here today. And I do have a health care provider

18 because my wife in August had a hip replacement, half

19 hip. And she fell Saturday before Easter at 1:30 a.m.,

20 and she has fractures, two fractures on the other side.

21 SENATOR PEELER: Thank you, sir.

22 All these candidates are incumbent.

23 MS. CASTO: Yes, sir.

24 SENATOR PEELER: And, Mr. Sims, we'll try to

25 make this as easy as possible.

1 Wayne Sims from Hartsville.

2 Do you swear to tell truth, the whole truth
3 and nothing but the truth, so help you God?

4 MR. SIMS: Yeah, I do.

5 SENATOR PEELER: Would you like to share with
6 the committee why you would like to continue serving on
7 the Wil Lou Gray Opportunity School board.

8 THE WITNESS: Yes. I have -- I have served
9 two terms before.

10 SENATOR PEELER: Okay. Any questions?
11 Comments?

12 SENATOR MCGILL: Move favorably.

13 SENATOR PEELER: Motion is favorable report.

14 REPRESENTATIVE MCCOY: Second.

15 SENATOR PEELER: Second heard.

16 All in favor, please raise your right hand.

17 Thank you, sir. I appreciate it.

18 MR. SIMS: Before I leave, I would like to
19 say thank you to the committee and each member. And I
20 feel it's an honor and a pleasure to serve at your
21 discretion on the board at Wil Lou Gray, and it's a
22 great place to be on the board because the young people
23 are there, boys and girls.

24 And I was at Florence-Darlington Technical
25 College, and I retired there. And it's so good to have

1 a place that they can go, children who are at risk.

2 Thank you so much.

3 SENATOR PEELER: Thank you. I'm glad it is
4 an at-large seat. We don't have to worry about where
5 you live.

6 Thank you.

7 MS. CASTO: These are all at-large seats.

8 We'll go back to tab B, Douglas Stewart
9 Cooner from Lexington. He is an incumbent. This is an
10 at-large seat, and all of these seats expire in 2017.

11 SENATOR PEELER: I appreciate your patience.

12 MR. COONER: Thank you, sir.

13 SENATOR PEELER: Please raise your right
14 hand.

15 Do you swear to tell truth, the whole truth
16 and nothing but the truth, so help you God?

17 MR. COONER: I do.

18 SENATOR PEELER: Thank you. Do have a
19 statement for the committee?

20 MR. COONER: Yes, sir, and I will be brief.
21 I'm not known for being brief, but I will be brief.

22 I can summarize for you very briefly why I
23 want to serve. Every child deserves a future filled
24 with opportunities and possibilities, but sometimes
25 those futures venture astray. There's a quote that

1 states that you can't go back and make a brand-new
2 start, you can start from now and make a brand-new end.

3 And I believe that Wil Lou Gray Opportunity
4 School is about making new endings.

5 My own life's work has focused on making
6 brand-new endings for the next generation. And I
7 believe to that generation, I offer wisdom, insight,
8 and perspective based on my own experiences.

9 And along with my equally qualified fellow
10 board members, our combined experiences can make a
11 significant difference in the lives of these children.

12 Thank you.

13 SENATOR PEELER: Thank you.

14 Questions or comments from the members of the
15 board?

16 REPRESENTATIVE WHITMIRE: Move for favorable.

17 SENATOR PEELER: Motion is favorable report.

18 SENATOR MCGILL: Second.

19 SENATOR PEELER: Second is heard.

20 All in favor, please raise your right hand.

21 Thank you, sir.

22 MR. COONER: Thank you very much.

23 SENATOR PEELER: Mr. Russell Hart.

24 MS. CASTO: Mr. Hart is from Roebuck. He is
25 an incumbent, and his term expires in 2017.

1 MR. HART: Thank you.

2 SENATOR PEELER: Do you swear to tell the
3 truth, the whole truth and nothing but the truth, so
4 help you God?

5 MR. HART: I do.

6 SENATOR PEELER: Thank you.
7 Do you have brief statement for the
8 committee?

9 MR. HART: Well, my professional career was
10 in the area of working with youth in YMCA parks and
11 recreation and teaching, coaching in public schools.
12 Just to see kids modify their behavior and return to
13 their communities in the state of South Carolina as an
14 asset rather than a liability. I'm interested in
15 youth. They are our future.

16 SENATOR PEELER: Thank you.

17 Any questions or comments?

18 REPRESENTATIVE WHITMIRE: Move favorable.

19 SENATOR PEELER: Motion is favorable report.

20 SENATOR ALEXANDER: Second.

21 SENATOR PEELER: Second is heard.

22 All in favor, please raise your right hand.

23 Thank you.

24 MR. HART: Thank you, and thank you for your
25 service.

1 Elizabeth Thrailkill.

2 MS. CASTO: Ms. Thrailkill is from Fort Lawn
3 with a term to expire in 2017.

4 MS. THRAILKILL: Thank you.

5 SENATOR PEELER: Do you swear to tell the
6 truth, the whole truth and nothing but the truth, so
7 help you God?

8 MS. THRAILKILL: Yes.

9 SENATOR PEELER: Thank you.
10 Do you have a brief statement for the
11 committee?

12 MS. THRAILKILL: There's no use going
13 through. We've all written why we want to be in there,
14 and there's no use boring you or taking your time.
15 Because obviously it doesn't bore us.

16 I knew Dr. Gray. I knew what she stood for.
17 I hope we never forget the contributions she's made to
18 this state, what she stands for. And we are there to
19 keep that alive. And I think our combined talents and
20 years of experience have proved themselves, and I hope
21 they will continue to. And at this time, too, I will
22 thank all of you for your very favorable support that
23 you've given us over the years. I appreciate it.

24 SENATOR PEELER: Thank you, ma'am.

25 Question or comments?

1 REPRESENTATIVE WHITMIRE: Motion in favor.

2 SENATOR PEELER: Motion is favorable report.

3 REPRESENTATIVE MCCOY: Second.

4 SENATOR PEELER: Second is heard.

5 All in favor, raise your right hand.

6 Thank you, ma'am.

7 MS. THRAILKILL: Thank you.

8 SENATOR PEELER: Meeting adjourned.

9 (The hearing adjourned at 3:24 p.m.)

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CERTIFICATE OF REPORTER

I, Sheri L. Byers, Registered Professional Reporter and Notary Public of the State of South Carolina at Large, do hereby certify:

That the foregoing proceedings were taken before me on the date and at the time mentioned on page 1 and the proceedings were recorded stenographically by me and were thereafter transcribed under my direction; that the foregoing transcript as typed is a true, accurate and complete record of the proceedings to the best of my ability.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 12th day of April, 2013, at Columbia, Richland County, South Carolina.

Sheri L. Byers,
Registered Professional Reporter,
Notary Public
State of South Carolina at Large
My Commission expires:
January 5, 2014

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