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CONSTITUTION REVISION COMMISSION

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1 T A P E D P R O C E E D I N G S

2 CHAIRMAN BERUFF: If everybody will --
3 okay, we can do it. Take everything -- a
4 couple of minutes to settle in would be great.

5 Commissioners, Commissioners, as we settle
6 back into our -- our meeting, at 1:47 we are
7 going to observe a moment of silence for the
8 loss of life of the FIU bridge collapse. So
9 just give everybody a heads-up.

10 THE SECRETARY: All Commissioners, please
11 indicate your presence, all Commissioners,
12 please indicate your presence. All
13 Commissioners, please indicate your presence.
14 Leave it open.

15 CHAIRMAN BERUFF: All right.

16 THE SECRETARY: All Commissioners, please
17 indicate your presence, all Commissioners,
18 please indicate your presence. Have all
19 Commissioners -- have all Commissioners
20 indicated your presence? Please indicate your
21 presence.

22 CHAIRMAN BERUFF: Commissioners, at 1:47
23 we will observe as a moment of silence, as I
24 said earlier, deference to the lives lost at
25 the bridge collapse last week at FIU. That

1 would be now. Please stand. Thank you.

2 We are now going to recess because we need
3 to change the board as we have a replacement
4 for a Commissioner and some of the electronic
5 gadgety he has to change. So we are going to
6 recess for five to ten minutes as the computers
7 get updated. We are recognizing our new
8 Commissioner, Judge John Stargel, who is
9 filling the vacancy for Commissioner Armas.
10 Thank you.

11 (Brief recess taken.)

12 THE SECRETARY: The Commission will come
13 to order. The Commission will come to order.

14 CHAIRMAN BERUFF: Okay, everybody, I will
15 let everybody settle in because the next two
16 are pretty simple.

17 Proposal 55, we are going to temporarily
18 postpone and we are going to do the same with
19 Proposal 96, we are going to temporarily
20 postpone that, also; is that correct? I think
21 so. Let's move on to Proposal 50.

22 Commissioner Diaz, would you like to
23 present your proposal?

24 COMMISSIONER DIAZ: Yes, sir, and
25 consistent with what I was saying before, I

1 believe in doing what you say, and saying what
2 you do. So I am going to be withdrawing this
3 proposal because I do not think that it rises
4 to the level of some of the other proposals
5 before us, and I think we need to start
6 whittling down some of these items. So with
7 that I withdraw Proposal No. 50.

8 CHAIRMAN BERUFF: Thank you. Then we
9 should go to 103, Commissioner Nunez, would you
10 like to present your proposal?

11 COMMISSIONER NUNEZ: Thank you, Mr.
12 Chairman. Would it be possible to just briefly
13 temporarily postpone this proposal? I am
14 working on a few items I would like to take
15 care of before taking up the time of this body.

16 CHAIRMAN BERUFF: We will postpone
17 Proposal 103 temporarily. On to Proposal 11,
18 Commissioner Plymale, would you present your
19 Proposal?

20 COMMISSIONER PLYMALE: This proposal,
21 Proposal 11 by the way, since we moved so
22 rapidly, this proposal can only be fixed in the
23 Constitution because it was in 1998, the
24 Constitutional Revision Commission amendment
25 that was passed by 64 percent of the voters.

1 Then it was subsequently foiled by the Division
2 of Elections.

3 This write-in loophole, which allows any
4 candidate or operative to manipulate the system
5 by finding anyone from anywhere in Florida to
6 become a write-in candidate in order to close a
7 primary.

8 Your mother, a local high schooler or a
9 citizen across the state could totally upset
10 your effort, could totally upset your effort if
11 you wanted to seek an office. Any of these
12 people wouldn't have to pay filing fees. They
13 wouldn't collect, have to collect petitions or
14 file financial disclosures to qualify. They
15 typically do not publish their platforms or
16 attend candidate forums. They are
17 delegitimizing our election process.

18 This issue has been well-covered and
19 supported in most of the major newspapers in
20 Florida since we convened last year. The
21 Supervisors of Elections who testified at one
22 of our committee meetings told us that this is
23 the single biggest complaint they receive if
24 the primary has been closed in their county.

25 I hope you think like I do and will vote

1 yes to send this to Style and Drafting. I
2 think we owe it to the voters who supported
3 this proposal in 1998 to honor their vote.

4 CHAIRMAN BERUFF: Thank you. I will now
5 open for questions to Proposal 11. Thank you.
6 Questions? I don't see any questions for
7 Proposal 11.

8 Commissioner -- Commissioner Joyner,
9 please.

10 COMMISSIONER JOYNER: Too late.

11 CHAIRMAN BERUFF: Is recognized. It's our
12 auctioning style here.

13 COMMISSIONER JOYNER: Thank you,
14 Mr. Chair. Commissioner Plymale, what led up
15 to -- how did we get to where we are with
16 respect to this, quote, "loophole"?

17 COMMISSIONER PLYMALE: Well, in 1998 it
18 was a proposal by the last CRC and they put it
19 on the ballot and it passed. At that time, you
20 know, I don't believe we really had a whole lot
21 of write-in candidates around the state. We
22 had them, but I don't think it was the thing
23 that it is today at all.

24 And I think their idea was to just allow
25 when there was only one primary when both

1 parties weren't participating, to allow all of
2 the eligible voters to vote.

3 It was before this rapid rise in
4 independents as a matter of fact. And so that
5 is what led it to be in 1998, and passed by --
6 by the margin that we now have even, more than
7 60 percent. And then the Division of
8 Elections, who personally must have had people
9 employed who didn't care for this, and they
10 figured out that write-in candidates had not
11 even been addressed by the committee that
12 looked at this, and it hadn't been addressed.
13 As Jon Mills, who was the Chair of Style and
14 Drafting said, it never even occurred to us to
15 talk about write-in's.

16 If it had occurred to them, they would
17 have put it in, but they didn't. And so what
18 we are doing is now we are covering what they
19 didn't even look at.

20 CHAIRMAN BERUFF: Is there any other
21 questions on Proposal 11?

22 COMMISSIONER JOYNER: I may have an
23 additional question, Mr. Chair.

24 CHAIRMAN BERUFF: Commissioner Joyner is
25 recognized if she has another question.

1 COMMISSIONER JOYNER: I -- it is my
2 understanding that primaries were created for
3 the expressed purpose of political parties to
4 select the candidate that they feel best
5 exemplify the values and ideology of the party,
6 and that is why they were created.

7 So that the R.'s, the D.'s and whatever,
8 the green, the other parties could select the
9 person that they wanted to represent them in
10 the general election. Is that correct?

11 CHAIRMAN BERUFF: Commissioner Plymale.

12 COMMISSIONER PLYMALE: Thank you, I'm
13 sorry. I don't think that was by statute. I
14 think that evolved. And I would tell you that
15 I would predict that with the rapid rise in
16 independents, we're going to see an
17 evolutionary change in that, too. But, yes, I
18 think you are right, it was for the primaries
19 to elect their candidates.

20 I -- the parties were stronger then. I
21 mean, if we are going to go back to the 1930's,
22 that is the way it was, and the parties did,
23 they chose their candidates. Then the
24 primaries evolved and I believe it was with the
25 Jimmy Carter Presidency, to tell you the truth,

1 he was the first Presidential candidate to win
2 in the Presidential Primary. So it all started
3 to climb from that. So I don't think it is
4 actually by law, I think it was an evolution.

5 CHAIRMAN BERUFF: Commissioner Joyner is
6 recognized.

7 COMMISSIONER JOYNER: Is there anything in
8 the law that would prevent those persons who
9 are not Republicans or Democrats from forming
10 their own party for the purpose of having their
11 own primary?

12 COMMISSIONER PLYMALE: No, I am sorry.
13 No, I can't get this all squared away either.
14 No, I don't think so, and we actually talked
15 about that in our committee meeting, and one of
16 the committee members asked, why don't we just
17 create another lane for -- for the other, for
18 the others, and that didn't seem real practical
19 to us.

20 You know, there is nothing to say that
21 people can't join a party right, I don't know,
22 whatever it is, 29 days or something, before a
23 primary. They can change parties, join a party
24 so they can vote. I am not sure that suits
25 our emerging, evolving society unless we want

1 them to do it with our devices, the young kids.
2 They are not going -- they are just not going
3 to do that.

4 CHAIRMAN BERUFF: Commissioner Joyner is
5 recognized.

6 COMMISSIONER JOYNER: So there is a
7 provision in the law that allows a person who
8 wants to vote in a primary to change their
9 political affiliation within so many days of an
10 election to vote in that primary and
11 subsequently change back to whatever other
12 party if they so desire? Is that true?

13 COMMISSIONER PLYMALE: That is right.

14 CHAIRMAN BERUFF: Commissioner Plymale.

15 COMMISSIONER PLYMALE: I will try.

16 CHAIRMAN BERUFF: There are students up
17 there.

18 COMMISSIONER PLYMALE: You are right,
19 there is not, but that is the provision that is
20 in the law. However, if they -- if they don't
21 do that and then the primary goes on with just
22 what is becoming an increasingly narrow bunch
23 of voters, then they don't get a choice in who
24 is going to serve them, because the winner of
25 that primary becomes the elected official.

1 And a large percentage of the voters in
2 our state, in our counties, in our districts,
3 are then not voting in that particular primary.

4 The independents won't, and the other
5 party people don't, and that becomes the person
6 who holds the elected office.

7 CHAIRMAN BERUFF: Commissioner Joyner.

8 COMMISSIONER JOYNER: But notwithstanding
9 all of that, the choice is ultimately in the
10 general election, irrespective of whether the
11 person wins at the primary, because the purpose
12 of the party is to have the person that you
13 want in the general, and if there is no
14 opposition from the other party, then that
15 person becomes the winner.

16 If -- but you want to make sure that the
17 object of your proposal is to give persons who
18 are not members of that party the right to
19 participate in that party's primary, and
20 therein lies the problem for me. However, it
21 strays from the purpose.

22 I have researched it and I am not
23 conflicted about this. Others share this
24 opinion, but everybody doesn't feel free to
25 express it. I was asked why, and I said I

1 want, as a Democrat, to be able to select in my
2 primary the Democrat that best exemplifies the
3 -- so you are allowing others, you are stopping
4 the others, you are allowing someone else who
5 comes in as a write-in to stifle -- no, I got
6 it wrong.

7 COMMISSIONER PLYMALE: No, that is wrong.

8 COMMISSIONER JOYNER: I got it wrong. At
9 least I recognize that, but because I think,
10 did I experience a write-in? I can't remember.
11 I have -- I had, I had opposition and there was
12 one time there was a write-in and one there
13 wasn't. But I want to know why is it that you
14 feel that I should not have the right as a
15 member of a party to be faced with opposition
16 from someone who shares the values of the party
17 of which those members would have the right to
18 select someone to represent them in the
19 general.

20 COMMISSIONER PLYMALE: Thank you, see, I
21 almost waited that time. Thank you. I am
22 not -- taking, your right won't be taken away.
23 You can still -- what happens is when there is
24 a not competitive primary, basically each party
25 is not participating, what it does is it raises

1 or elevates that primary election to a general.
2 So you are still allowed to pick whichever one
3 of those Democrats are there. So I am not
4 taking away any of your rights. You are still
5 allowed to pick. It is just I also get to
6 pick. I know you don't like that, I am sorry.

7 CHAIRMAN BERUFF: Commissioner Cerio is
8 recognized.

9 COMMISSIONER CERIO: Thank you, Mr.
10 Chairman. Commissioner Plymale, just to follow
11 up on Commissioner Joyner's points, which I
12 quite frankly kind of didn't really dawn on me
13 until she started raising them.

14 What is the issue, or let me ask you this,
15 what is the rationale, because it seems to me
16 you could be creating another problem by trying
17 to cure one or possibly, not necessarily, but
18 possibly? What is the rationale if you have a
19 formidable, a legit formidable write-in
20 candidate to say, okay, members of the other
21 party, you now don't get to select your
22 candidate, it is wide open? Aren't we
23 potentially creating another problem?

24 COMMISSIONER PLYMALE: Well, we are not
25 precluding what I would call a very legitimate,

1 perhaps formidable, write-in. We are -- we are
2 -- we are going back and fixing something that
3 has been foiled, that was passed in 1998, and
4 those write-in's across the state have not
5 been -- first of all, they don't -- first of
6 all, all write-in's should not have to pay
7 filing fees and that kind of thing.

8 These candidates are found specifically
9 from somewhere, from Pinellas County to run in
10 a legislative race in Indian River, from
11 somebody's mother to close a primary at the
12 Palm Beach Port Authority race.

13 You can find anybody. We can -- you run
14 and we could get your brother maybe to close
15 the primary on you. They aren't legitimate,
16 they aren't going to run. This doesn't
17 preclude a formidable write-in from running.
18 There still will be a general, they will run
19 there. It does not -- it doesn't preclude
20 that.

21 CHAIRMAN BERUFF: Commissioner Cerio.

22 COMMISSIONER CERIO: Brief follow-up,
23 Mr. Chair. And I understand and I -- I think
24 that we all know maybe one instance in
25 particular, or several instances where -- where

1 a candidate goes and recruits, but I just think
2 we have to be very cautious about using the
3 term "a legitimate write-in" and still at the
4 end of the day, we need to consider that under
5 certain circumstances we are telling a party,
6 Republican or Democrat, now it is open, you
7 don't get to select your candidate to go head
8 to head with this write-in who may be
9 diametrically opposed to everything that, you
10 know, your candidate believes in. And I just
11 think that is something that we need to very
12 seriously consider.

13 COMMISSIONER PLYMALE: Okay.

14 CHAIRMAN BERUFF: Commissioner Plymale.

15 COMMISSIONER PLYMALE: I am not sure there
16 was a question in there.

17 COMMISSIONER CERIO: I apologize. That
18 was not a question.

19 CHAIRMAN BERUFF: So is there more
20 questions on Proposal 11? Any more questions
21 on Proposal 11?

22 We will open Proposal 11 for debate, those
23 who want to speak, Commissioner Smith, you are
24 recognized.

25 COMMISSIONER SMITH: Thank you, Mr. Chair.

1 I am in the unique position of going to vote
2 against this thing in November if it makes it,
3 but I will vote for it today because there is
4 enough Floridians that have called me about
5 this thing and enough organizations and I think
6 people deserve to vote on this, that, again, I
7 am going to vote against in November.

8 But let me explain a little bit about
9 some of the -- because having about eight
10 elections, being the Minority Leader in the
11 House and the Senate, being over elections all
12 over the state, two things that came out.

13 Look, where there is a legitimate
14 write-in. Now, there is some, there could be
15 some two percent of write-ins that are
16 legitimate. But realize a write-in files
17 paperwork at the beginning of the race, that is
18 it, they file paperwork. They don't have to do
19 the monthly reporting, they don't have to pay
20 any filing fee.

21 They don't have to do anything. So that
22 is why it has been used to get your cousin,
23 your neighbor or someone to do as a write-in.
24 So all this does, if it is a legitimate
25 write-in or if someone wants to go write in,

1 they can still be a write in, it is just you
2 treat it like the general election then.

3 You are not closing the primary just
4 because this write-in is there. So if there is
5 a person that wants to do a write-in, they can
6 still be a write-in, you just won't close the
7 primary in that case. Now, I do think this
8 would open up -- people will find a way to
9 manipulate elections. Don Gaetz, stop looking
10 at me.

11 They will find a way, there are some
12 people named Smith in my area may file against
13 you, thanks, Don. But -- so this, this
14 proposal just says because this person, but
15 only filed one piece of paper, never shows up
16 again, never has to pay a filing fee, never has
17 to do any of the reporting that a normal
18 candidate would do, that person can still run,
19 we are just going to treat it as a general
20 election and not close the primary.

21 So it is a legitimate question to ask
22 Floridians. And so I will support it for that
23 reason, and I think it is something that we all
24 heard about it plenty of times as we traveled
25 the state, a lot of people talked about open

1 primaries, a lot of people talked about closing
2 the write-in loophole and for that reason I am
3 supporting it, to give those people a chance to
4 vote on it in November.

5 CHAIRMAN BERUFF: Commissioner Coxe is
6 recognized on debate.

7 COMMISSIONER COXE: Briefly. The voters
8 approved what we are talking about 20 years
9 ago. The Secretary of State determined that if
10 there is only going to be one primary, then
11 everybody should have the opportunity to vote
12 in the one primary because there would be no
13 general election and the system got gamed by
14 write-ins.

15 In 2016 in northeast Florida the two
16 candidates who would have had open primaries
17 gamed it by getting a friend to, quote,
18 "write-in" as a candidate and suddenly the
19 primaries got closed. This is nothing more
20 than an intention to fix what was meant to
21 happen in 1998.

22 It has been gamed by Republicans, it has
23 been gamed by Democrats; it just depends where
24 you are as to who is gaming this system. But
25 that is all this does, and it should allow

1 everybody to vote if there isn't going to be a
2 general election. That was what the voters
3 approved in 1998, and that is what we should
4 reinforce today.

5 CHAIRMAN BERUFF: Commissioner Schifino is
6 recognized.

7 COMMISSIONER SCHIFINO: Thank you, Chair
8 Beruff. Very briefly, I stand in support of
9 Proposal 11. I am going to just follow up
10 briefly on what Commissioner Smith pointed out
11 as to open primaries. As you all know, I had a
12 proposal for an open primary.

13 Why? Twenty-seven percent of the voting
14 population are now independents. Fifty percent
15 of your Millennials are independents. All of
16 the projections show within five years your
17 independents are going to out-number your R.'s
18 and your D.'s.

19 Our present system of party politics is an
20 endangered species. It is. It is just a
21 question of when is that going to happen. So
22 this is but a small fix to an issue, that as
23 Commissioner Coxe just pointed out, the CRC and
24 the citizens of Florida attempted to fix 20
25 years ago. They did their part. You have had

1 this issue. So I encourage you all to take a
2 really hard look at this small fix to a really
3 big problem. Thank you.

4 CHAIRMAN BERUFF: Commissioner Martinez is
5 recognized.

6 COMMISSIONER MARTINEZ: Thank you,
7 Mr. Chair. I rise in support. Let me just
8 tell you about an experience that I had on this
9 particular issue. I will try not to mention
10 particular names, but it was a race in South
11 Florida, a major race.

12 There were two candidates announced,
13 Democratic candidates. One of them has
14 tremendous bi-partisan support in the
15 community. At the last minute the other
16 candidate had a write-in, put in a name and
17 wrote in the name and that closed that primary.

18 My involvement with that is that I was
19 retained to represent a voter who couldn't vote
20 in that primary, and what I do as a trial
21 lawyer when I get difficult cases, I hire
22 another lawyer, and I hired a constitutional
23 lawyer to actually file a lawsuit, and we filed
24 the lawsuit in Federal Court on First Amendment
25 grounds in Ft. Lauderdale. And that is where

1 it was assigned.

2 And we didn't prevail, and the -- the
3 primary was closed, and it went -- ultimately
4 that candidate who had bi-partisan support won
5 the primary, and that she had opposition in the
6 general and she still won. But it was used in
7 that particular race strictly as a loophole to
8 make it difficult for that particular candidate
9 to be able to tap into the -- the overall
10 populous to allow them to vote, and the person
11 who I represented was not allowed to vote in
12 that primary.

13 But anyway, it had a good result. So it
14 was used in that case as strictly as a
15 loophole, as a write-in loophole and I strongly
16 support this amendment of which I am a
17 co-sponsor. Thank you.

18 CHAIRMAN BERUFF: Commissioner Lester.

19 COMMISSIONER LESTER: I -- thank you, Mr.
20 Chairman. With all due respect to, to
21 Commissioner Martinez and Schifino and some of
22 the other really learned attorneys here, and I
23 am certainly not, I am not an attorney, I am
24 certainly not a constitutional attorney.

25 It seems to me that in most avenues in

1 life that I am familiar with, if you want to
2 vote in an organization you have to join that
3 organization, and it seems to me no -- I have a
4 hard time getting past that just basic thing,
5 that if you want to join, have a voice in their
6 organization you have to be a member of that.

7 That is true in business, it is true in
8 church affiliations, it is true in volunteer
9 organizations, and if you think about it is
10 even true in terms of voting.

11 Not everyone in our country gets to vote.
12 Only those who choose to register to vote get
13 to vote. So there is a choice right there you
14 make, and then if you want to vote in a
15 particular party's primary, you have to make a
16 further choice to choose to join that party.

17 And so while I agree with Commissioner
18 Coxé in the sense that we are trying to fix
19 something that was unintended, it seems to me
20 that, that in an effort to fix that which we
21 might agree is a legitimate glitch, we are
22 going to do something far worse. I think we
23 are going to create a system where those
24 choices don't matter and it is sort of
25 unfortunate that the -- that the young people

1 who were here a minute ago just had to leave,
2 because it seems to me that that would have
3 been a really great lesson for them to think
4 about, that one of the most important choices
5 they will have as young people is, first of
6 all, are they going to register to vote.

7 Because just as Commissioner Schifino has
8 pointed out, a lot of people now aren't
9 registering with a political party. The fact
10 is a lot of people aren't registering, period.
11 But we are not going to quit having voter
12 registration, or I pray that we are not,
13 because a lot of people aren't registering to
14 vote anymore.

15 And so these young people here, it would
16 be an interesting discussion on the bus home
17 today for them to start talking about, you
18 know, with the adults that were here heading
19 them, what does it mean to register to vote.
20 And then once they talk about that, to say and
21 why do you register to vote with a particular
22 party or choose to register as an independent?

23 It is a choice to register as an
24 independent, it is a choice to register as a
25 Democrat or Republican, a Libertarian, a

1 vegetarian, however you want to register.

2 But that is a choice and choices have
3 consequences, and it seems to me that that is
4 -- I can't get past just that fundamental
5 point. And so while I agree that there is a
6 sort of an unintended loophole here, I am going
7 to stand and vote against the proposal.

8 CHAIRMAN BERUFF: Commissioner Solari.

9 COMMISSIONER SOLARI: Thank you, Mr.
10 Chairman. Commissioner Lester, I have to
11 disagree with your main point there. If you
12 want to have a voice in the organization you
13 need to belong to an organization. My
14 understanding is when you vote, the
15 organization is as a member of the American
16 Republic, as a citizen of the area that you are
17 voting in, and to me that is the possibility of
18 voting.

19 The registration then is just to see
20 whether you qualify, right, and if nobody is
21 gaming the system. And that then leads us to
22 what the point of this is, as I see the
23 amendment.

24 The amendment is brought up because too
25 many people see this as gaming the system, and

1 that their fundamental right to vote is
2 abridged.

3 I think the larger question is, why then
4 do we then actually have different parties as
5 opposed to just putting everybody in one race
6 and then we have what they call two favorites,
7 take the top two and then vote again. But the
8 idea that you need to, you need to be part of a
9 particular organization to vote, I think is
10 spurious in this case, because the
11 organization, again, is the community or the
12 republic you belong to. Thank you.

13 CHAIRMAN BERUFF: Commissioner Stemberger
14 is recognized.

15 COMMISSIONER STEMBERGER: So I appreciate
16 the effort, Commissioner Plymale, and I know
17 you have good intentions. I just wanted to
18 point out the fact that there actually is an
19 Independent Party and you can sign up to be an
20 Independent Party and Commissioner Schifino, if
21 the two-party system is going to die away, and
22 I don't think that it is, that Independent
23 Party could come up as a third party.

24 What we are talking about is NPA,
25 non-party affiliations, and folks should be

1 very clear when they do that, that they are not
2 affiliating with a party. And I think I agree
3 with Commissioner Joyner, that Democrats should
4 pick Democrats, Republicans should pick
5 Republicans. And so I am -- unfortunately will
6 be opposed to the amendment.

7 CHAIRMAN BERUFF: Further debate? I don't
8 see any further debate, so with that -- I am
9 sorry, I am sorry, Commissioner Coxe is
10 recognized.

11 COMMISSIONER COXE: At the Ethics and
12 Elections Committee when this was work-shopped
13 in great detail, the biggest complaint from the
14 Supervisors of Elections in the state of
15 Florida was from the public, that they were
16 outraged and offended that they did not get to
17 vote in these elections because somebody had
18 gamed it.

19 CHAIRMAN BERUFF: Commissioner Lee is
20 recognized on debate.

21 COMMISSIONER LEE: Well, what were the
22 famous last words from Commissioner Sprowls, I
23 wasn't going to say anything, but the point
24 that Commissioner Coxe makes is true. But when
25 this amendment passes and it goes to the voters

1 and they pass it, what you are then going to
2 have is the party seeking to close the primary
3 finding someone in the other party to file just
4 as they have found Independents to file today,
5 and that is the frustration with the
6 imperfections in the system.

7 I am not exactly sure what to do about
8 this, but I thought it was important to point
9 out that as long as there is as much at stake
10 as there is at stake in the eyes of the
11 partisans, you are going to have people going
12 to the maximum extent their creative wisdom
13 will allow them to go, to figure out a way to
14 control turnout. Thank you.

15 CHAIRMAN BERUFF: Any further debate on
16 Proposal 11?

17 Commissioner Plymale, you are recognized
18 to close on Proposal 11. Thank you.

19 COMMISSIONER PLYMALE: Thank you, Chairman
20 Beruff. I want to thank my co-sponsors,
21 Carolyn Timmann, Bobby Martinez, Hank Coxe and
22 Bill Schifino for co-sponsoring. And I would
23 like to particularly thank Commissioner Smith,
24 who I have used for a year as an example of
25 being a Floridian first when it came to this

1 Commission.

2 He has listened to the voters and he said
3 it over and over, if it is on the ballot he is
4 not voting for it. He has even taken advantage
5 of the loophole to run, but he heard the
6 citizens of Florida and he wants to see it go
7 to the ballot, and I appreciate that more than
8 he probably knows.

9 I agree that the system will always be
10 gamed. We are human beings and every system is
11 gamed. It is just the way it is. But if we
12 close this loophole, it is going to be harder
13 to game our system, and that is a fact. They
14 will have to file a financial disclosure, and
15 they don't have to do that now.

16 There would be -- but it will be gamed,
17 make no mistake, but it will just cost them
18 more, it will become more transparent. So I
19 would ask you to please correct this write-in
20 loophole by reestablishing the ability of all
21 eligible voters to vote in the primary when
22 there is only one party participating. Thank
23 you.

24 CHAIRMAN BERUFF: We will now vote on
25 Proposal 11. Please open the board.

1 Commissioners, please vote.

2 Has everybody voted?

3 If everybody has voted, please close the
4 board. Tally the votes.

5 THE SECRETARY: Twenty-one yea's, 12
6 nay's, Mr. Chairman.

7 CHAIRMAN BERUFF: The motion is adopted.
8 The proposal is committed to Style and Drafting
9 Committee. Thank you.

10 We are now going to take Proposal 103,
11 which was temporarily postponed. Commissioner
12 Nunez, please introduce your proposal.

13 COMMISSIONER NUNEZ: Thank you, Chairman
14 Beruff, and Commissioners, for allowing me to
15 present Proposal 103, dealing with sessions of
16 the Legislature.

17 Commissioners, simply put, this Proposal
18 amends Section 3 of Article 3 to provide that
19 the Legislature convene for regular session on
20 the second Tuesday after the first Monday in
21 January of each even-numbered year.

22 Currently the State Constitution
23 prescribes that the date for convening the
24 60-day regular session of the Legislature,
25 specifically saying that on odd-number years

1 the regular session must begin on the first
2 Tuesday after the first Monday in March. For
3 even-numbered years the State Constitution
4 permits the Legislature to fix by law the date
5 for convening the regular legislative session.

6 If no date is fixed by law then the
7 regular session in even-numbered years must
8 begin on the first Tuesday after the first
9 Monday in March.

10 Simply by way of background, the
11 Legislature recently has adopted this practice
12 during the 2016 session as well as the 2018
13 session that just concluded, and it has also
14 historically done this during redistricting
15 years which occurs every ten years, and that is
16 the proposal, Mr. Chairman.

17 CHAIRMAN BERUFF: Thank you. Open it up
18 for questions.

19 Commissioner Smith is recognized.

20 COMMISSIONER SMITH: Commissioner Nunez,
21 isn't this regionally biased forcing south
22 Floridians to come up here in January and
23 February?

24 CHAIRMAN BERUFF: Commissioner Nunez.

25 COMMISSIONER NUNEZ: Thank you,

1 Mr. Chairman. The only thing I would say to
2 that, Commissioner Smith, is that we are up
3 here anyways for committee meetings. So you
4 are still going to have to experience the
5 Tallahassee cold.

6 CHAIRMAN BERUFF: Questions on Proposal
7 103? I think we are going to move on to the
8 amendments on Proposal 103, or are we going to
9 -- go to amendment, no? Yes, there is a string
10 of amendments. 143626.

11 Commissioner Lee, please present your
12 Amendment.

13 COMMISSIONER LEE: Thank you, thank you,
14 Mr. Chairman. I had a series of thoughts that
15 I didn't think rose to the level of filing a
16 proposal, and I thought I would file a few
17 amendments as I worked through them. Some of
18 them were good ideas, some of them weren't,
19 once you tried to put them into language.

20 There is a series of six amendments. We
21 are on bar code 143626. I guess there are
22 eight amendments, and I knew we would reach the
23 point, Mr. Chair, where we would have to have a
24 conversation about the interpretations of our
25 rules relative to the germanity standard, and

1 rather go into a lengthy conversation about
2 these amendments, I think -- I have talked to
3 Representative Commissioner Nunez, and I think
4 she would like to be recognized at your
5 pleasure.

6 CHAIRMAN BERUFF: Commissioner Nunez is
7 recognized.

8 COMMISSIONER NUNEZ: Thank you, Mr.
9 Chairman, to make a point of order.

10 CHAIRMAN BERUFF: Show the point of order
11 referred to Rules and Administration, Chair
12 Cerio for a recommendation. Oh, you are going
13 to state your motion.

14 COMMISSIONER NUNEZ: Yes, sir.

15 CHAIRMAN BERUFF: Okay. I just want you
16 to write it.

17 COMMISSIONER NUNEZ: Thank you, thank you,
18 Mr. Chairman. Under Rule 7.4 the amendment is
19 of a different subject from that under
20 consideration, and it is my opinion that it is
21 not a germane issue and should not be admitted
22 under the code of the amendment. The proposal
23 as we heard previously changes the legislative
24 start date.

25 The amendment would revise a different

1 section relating to the review period for
2 appropriations Bills.

3 CHAIRMAN BERUFF: Commissioner Lee is
4 recognized.

5 COMMISSIONER LEE: Thank you, Mr. Chair.
6 I understand, we have had a conversation about
7 that and I think this is an appropriate point
8 to refer to the Rules Committee.

9 I would just ask that we refer all of
10 these amendments for the same consideration so
11 that they can parse through which ones are
12 germane and which ones aren't in order to set
13 the standard so we don't waste time.

14 CHAIRMAN BERUFF: Commissioner Nunez is in
15 consensus to that, so we are going to refer
16 eight amendments. Do I need to read them into
17 the record by number? No.

18 Mr. Cerio, I am putting them in your lap.

19 COMMISSIONER CERIO: Mr. Chairman, thank
20 you. I heard you loud and clear. I would
21 request that the proposal, as well as the
22 related amendments, be temporarily postponed so
23 I can have a chance to review, talk to the
24 sponsors and we will come back.

25 CHAIRMAN BERUFF: All of the amendments

1 are temporarily postponed.

2 COMMISSIONER CERIO: Thank you.

3 CHAIRMAN BERUFF: I think we are going to
4 move on to Proposal 13 by Commissioner Timmann.
5 Would you please introduce your proposal?

6 COMMISSIONER TIMMANN: Thank you,
7 Mr. Chairman, and Commissioners, for this
8 opportunity to present this proposal about
9 public trust and keeping government as close to
10 the people as possible.

11 I would like to recognize my co-sponsors,
12 Commissioner Nocco and Commissioner Gainey, who
13 aren't just co-sponsors in this, they are true
14 partners, and I look forward to them helping me
15 answer any questions that come up as well.

16 I would also like to wave to a few friends
17 up the gallery, friends and fellow
18 Constitutional officers, and I greatly
19 appreciate their attendance here today as well.
20 That might have been a personal point of
21 personal privilege, But I am waving to them.

22 CHAIRMAN BERUFF: There is no cheering
23 allowed though.

24 COMMISSIONER TIMMANN: Okay, thank you.
25 This proposal revises Sections 1 and 6 of

1 Article VIII of the Florida Constitution to
2 mandate that all constitutionally-prescribed
3 county officers, the Sheriff, Tax Collector,
4 Property Appraiser, Supervisor of Elections and
5 Clerk of the Circuit Court, be elected by the
6 electors of their county.

7 Additionally, the proposal would not
8 allow a county to abolish, transfer the duties
9 of or establish any alternate method of
10 selection for county constitutional officers.

11 The proposal would take effect January 5th
12 of 2021, but would govern the elections for
13 county constitutional officers for the 2020
14 election cycle. That gives any affected county
15 plenty of time to make any necessary changes.

16 The issue was extensively reviewed by two
17 committees, the Local Government and Ethics and
18 Elections. We talked about shared efficiencies
19 and resources. We talked about the language
20 that was used in a few counties to entice
21 voters to give up their right to elect
22 independent constitutional officers who report
23 directly to them.

24 We talked about how this is a statewide
25 issue. We also talked about the essence of

1 home rule, government and elected officials
2 closest to the people are simply more
3 accountable. It only received one no vote in
4 each committee.

5 For background, the 1885 Florida
6 Constitution initially provided the county
7 constitutional officers are to be elected and
8 that their duties are to be established by
9 statute. However, particularly since the 1968
10 Florida Constitution with the authorization of
11 county charters, the method of selection and
12 duties of county constitutional officers in
13 some counties changed.

14 This is a statewide issue. Twenty
15 counties already have charters, eight have
16 altered their constitutional office structures,
17 and we continue to hear that others are ready
18 to grow their bureaucracies by taking over
19 these constitutional responsibilities.

20 The proposal revises Section 1 and 6 of
21 Article VIII, again to ensure all county
22 constitutionally prescribed officers are
23 elected by the voters of that county. This
24 will stop the erosion of direct accountability
25 and transparency.

1 And just to clarify, I am an elected
2 county constitutional officer and Clerk of the
3 Circuit Court and Comptroller for Martin
4 County.

5 My county is not a charter county, so this
6 doesn't benefit me personally. However, this
7 is very -- my motivation is strictly to restore
8 and protect the structure that I pledge to help
9 ensure as a public trustee so that all
10 Floridians can have their voices heard.

11 So my proposal is simple in concept and
12 passes what I consider the first bar of your
13 review. Its goals cannot be accomplished other
14 than through a constitutional amendment because
15 it does speak to the organization, framework
16 and foundation of our government.

17 If approved by this Commission, will let
18 all Floridians decide if these officers shall
19 report directly to the people other than to
20 appointed charter review commissions, county
21 employees or another layer of local elected
22 officials.

23 In essence, the people could choose if
24 they want to flatten the layers of bureaucracy
25 between the citizens and their local officers.

1 This proposal is about good government,
2 transparency, accountability and the importance
3 of separation of powers.

4 I think we keep hearing that theme. These
5 are the foundations of our Constitution and I
6 personally believe it is our responsibility to
7 ensure that these protections and services on
8 behalf of the public are not eroded.

9 It is not at all a reaction to any one
10 particular county, as some may claim, and it is
11 also not an attack on home rule or a threat to
12 charters. There are many, many other important
13 local issues that form the impetus for charter
14 governments.

15 In committee we heard that charter
16 governments were originally intended to focus
17 on local matters such as water, sewer, zoning,
18 roads, and even mental health services on
19 behalf of their residents. Constitutional
20 officers don't stand in the way of any of those
21 important programs.

22 Some may feel the current system isn't
23 broken. However, I believe we have a
24 responsibility and now the opportunity to let
25 the voters decide if they want their

1 protections of full and direct accountability,
2 segregation of duties and accounting of public
3 funds, transparent assessments and budgeting
4 and independent law enforcement powers and
5 elections.

6 In short, do they want to know exactly who
7 provides and who is responsible for these
8 important services. And they are immediately
9 held accountable for those decisions on the
10 ballot, in the press, and certainly in their
11 own communities one elected official, directly
12 accountable to the voters. Ultimately you
13 can't hide from that or delegate the blame.

14 It is about trusting and allowing the
15 voters to directly, not through a charter,
16 determine the best qualifications and
17 responsibilities for their elected local
18 constitutional officers.

19 To me, that speaks directly to the essence
20 of home rule. In some charter counties these
21 officers are elected, but then their hands are
22 tied through a convoluted system where they
23 report to other elected officials or actually
24 through a contract, not a contract with the
25 voters, a contract with non-elected officials.

1 That provides a very false sense of security to
2 the public.

3 Our employment contract should be with the
4 public we serve, otherwise how do the voters
5 really determine who is accountable to them?

6 For example, when an elected official
7 missteps, whether the allegations are criminal
8 or ethical, the public will know it by the next
9 morning. They will know it on Facebook, they
10 will know it Above The Fold, they will know it
11 on Twitter, they will know it. Then they may
12 hear from FDLE, the Commission on Ethics, the
13 Governor, the Legislature, and if they make it
14 through all of that process, they are going to
15 hear from the voters, as they should.

16 If a county employee makes a misstep,
17 similar, the public may never even know that
18 employee's name, what they did, or what was
19 done to rectify the situation so it doesn't
20 happen again.

21 So let's just ask the voters if they want
22 to be the ones in charge and elect their
23 constitutional officers, a Property Appraiser,
24 Sheriff, Tax Collector, Supervisor of Elections
25 and Clerk of the Circuit Court.

1 Mr. Chairman, that is my proposal and I am
2 prepared to answer any questions with a little
3 help from my friends.

4 CHAIRMAN BERUFF: Commissioner Martinez is
5 recognized.

6 COMMISSIONER MARTINEZ: Mr. Chair, thank
7 you very much, sir. I have a question,
8 Commissioner. I have a lot of respect for you,
9 I have known you for many years. You are
10 somebody that I would want on my team, on any
11 team I have. But I am a little troubled by
12 this one.

13 In Miami-Dade County, we are still part of
14 the State of Florida, we have an appointed
15 Sheriff. As I understand it right now, under
16 the Constitution, the voters down there could
17 elect to go differently, we could have an
18 elected Sheriff.

19 But what there would do is this would take
20 away our discretion to do so, as we choose to
21 do, so that our hands would be tied, we would
22 have to just have an elected Sheriff. Is that
23 -- is that correct?

24 COMMISSIONER NUNEZ: That is correct.

25 COMMISSIONER MARTINEZ: Why would we want

1 to do that? Why would the voters of Miami-Dade
2 County want to give up their discretion to how
3 they decide to govern themselves? Why would he
4 we want to do that?

5 CHAIRMAN BERUFF: Commissioner --

6 COMMISSIONER MARTINEZ: I am sorry.

7 CHAIRMAN BERUFF: Are you finished with
8 the question? Commissioner Plymale, respond to
9 that question.

10 COMMISSIONER PLYMALE: It is Martin
11 County, but Commissioner Timmann.

12 CHAIRMAN BERUFF: Timmann, I am so sorry,
13 I am looking right at you and I am calling -- I
14 apologize. Commissioner Timmann, please
15 respond.

16 COMMISSIONER TIMMANN: Thank you for the
17 question, Commissioner Martinez. I think they
18 would not be giving up anything. They would
19 actually be getting more rights, because now
20 they would have the right to directly choose
21 who would handle those law enforcement powers.

22 Likewise in Miami-Dade, their charter
23 amendment was around 1966, I believe, and only
24 78 -- 79,000 people voted for that. So you
25 have to have been born before 1949, and

1 Commissioner Gaetz, I don't think you could
2 have even voted on it. That was meant to be a
3 compliment.

4 CHAIRMAN BERUFF: All right.

5 COMMISSIONER TIMMANN: But even then, 78
6 -- 79,000 people voted on it then, because of
7 the actions, the bad actions of one official.
8 I think we have far more resources now to
9 handle any more of those bad actions, because I
10 think we all see, regardless of what office it
11 is, whether it is a County Commissioner,
12 whether it is another type of local elected
13 official.

14 I don't believe this is taking anything
15 away from Miami-Dade. I think it is empowering
16 them to make their own decision.

17 CHAIRMAN BERUFF: Commissioner Diaz is
18 recognized.

19 COMMISSIONER DIAZ: I have like a series
20 of questions, three questions in my head.

21 CHAIRMAN BERUFF: We will play ping pong
22 back and forth.

23 COMMISSIONER DIAZ: Okay. I did miss the
24 beginning of your speech. So I might have
25 missed the first part, which is how many

1 charter counties currently have -- have charter
2 clauses that would be affected?

3 CHAIRMAN BERUFF: Commissioner Timmann.

4 COMMISSIONER TIMMANN: Thank you,
5 Mr. Chairman. There are currently 20 charter
6 counties, eight of them have already made
7 changes, others are certainly talking about it.

8 CHAIRMAN BERUFF: Commissioner Diaz.

9 COMMISSIONER DIAZ: Does a charter county
10 have the ability through a local Bill or a
11 local law, that goes through the legislative
12 process, do they have the ability to amend the
13 charter that way? Do you know that, the answer
14 to that?

15 CHAIRMAN BERUFF: Commissioner Timmann.

16 COMMISSIONER TIMMANN: That I am not sure
17 of. I know they can amend it through the
18 Charter, through the Charter Review Commission.

19 COMMISSIONER DIAZ: I believe --

20 CHAIRMAN BERUFF: Commissioner Diaz.

21 COMMISSIONER DIAZ: Yes, I agree they can.
22 The other question I had is could you
23 hypothetically have a situation where one of
24 these charter counties, a majority of its
25 voters don't vote in favor of this proposal,

1 yet if the rest of the state votes, I guess it
2 would be 60 percent in this case, that the
3 whole rest of the state could be imposed on
4 that county?

5 CHAIRMAN BERUFF: Commissioner Timmann.

6 COMMISSIONER TIMMANN: I think you could
7 say that about almost any proposal. I would
8 say here that the reason I believe this is a
9 statewide issue, and we heard a lot about this
10 in committee is the constitutional officers
11 don't implement policy from a board, they
12 follow state law, state rules and the state
13 Constitution. It is a different dynamic.

14 Thank you.

15 CHAIRMAN BERUFF: Another question? There
16 was somebody here. Commissioner Smith, would
17 you like to -- anyone else? We will start
18 debate.

19 Commissioner Smith on debate.

20 COMMISSIONER SMITH: Thank you, and I had
21 a question and Commissioner Diaz kind of took,
22 took the question. The concern that we have
23 say in Broward County, and I will give Broward
24 County specific, there is a Charter Review
25 Commission right now.

1 So you got citizens in Broward County
2 meeting and looking at their charter. Broward
3 doesn't have a Tax Collector. I wouldn't -- I
4 don't even know what a Tax Collector is,
5 because I have never -- we have never had one
6 in Broward.

7 So we can have a situation where Broward
8 County Citizens have a charter review that if
9 they wanted a Tax Collector they can do it.
10 They decide not to do it, but your proposal
11 makes it onto the ballot and the rest of the
12 state votes for it, now you will force a Tax
13 Collector onto Broward, who had the opportunity
14 to change it, but decided not to.

15 You are going to subject some citizens to
16 the will of the rest of the state when it is
17 dealing with their local government.

18 Now, like the other proposals, the other
19 proposals, okay, well, Floridians, we are going
20 to deal with this, but we are specifically
21 talking about their government and the two
22 words you mentioned before which mean a lot to
23 me, home rule.

24 You are going to just obliterate the
25 Broward County home rule when it comes to

1 creating a whole new form of government, a
2 whole new office of government, along with new
3 employees and everything, creating a Tax
4 Collector when the citizens of Broward had that
5 opportunity to do it now, and they may choose
6 to do it or not to do it; I have concerns when
7 it comes to home rule subjecting Broward County
8 to have to do that when as Commissioner Diaz
9 and others have stated, those can do it
10 themselves through another means, not just
11 through a Constitutional Amendment. So I won't
12 be supporting this.

13 CHAIRMAN BERUFF: Further debate?

14 Commissioner Kruppenbacher is recognized.

15 COMMISSIONER KRUPPENBACHER: Yes, Mr.
16 Chairman. I am living at Ground Zero on this,
17 and one, this amendment would not preclude
18 Broward County from creating one of these
19 positions as an elected office.

20 What is going on, let's take Orange
21 County. Orange County, for the first time in
22 history ends up with every one of these offices
23 being filled by a Democrat, and the
24 Republican-controlled Commission turns around
25 and says, oh, let's have an amendment that

1 abolishes their positions, makes them all
2 county departments. So they are basically
3 underneath us, right. And let's put term
4 limits.

5 And there now are two lawsuits, one in
6 which the Appellate Court held in favor of the
7 challenges that are working their way up, and
8 they were politically motivated, and if you
9 look at the ballot language, this is all
10 political that people put out there on this
11 stuff.

12 The public does not realize what exactly
13 is transpiring. So at the end of the day this
14 is basically saying, County Commission, you
15 don't get to play games like this with these
16 elected people. And we are spending a lot, in
17 Orange County alone, we are spending an
18 inordinate amount of resources fighting a
19 political game that is going on.

20 And if you look at the ballot language it
21 says we are making you all departments, but
22 none of you, you can't understand what you
23 voted on or what the impact is, or why you are
24 even doing it. But it just so happens it
25 occurs the minute the Democrats take control of

1 all of those offices, and I am a Republican.

2 So I can say this, but it is really
3 unseemly, and I think that what we are trying
4 to do is prevent, and I think this Bill, the
5 playing of politics at a local level, and let's
6 put the cards on the table.

7 Generally the electorate is uninformed
8 about the depth of what they are voting on,
9 right? That just is a reality of what happens
10 today, and these are very technical issues.
11 You can have a low turnout in a county, all
12 right, you have got a Sheriff over in Volusia
13 who told us all, his entire department is not
14 run the way law enforcement ought to run it, it
15 is run the way politicians are running it from
16 the County.

17 He has no other alternative. Let's talk
18 about the Property Appraiser, all right. You
19 are putting the control of the entity that
20 decides on the value of property, that raises
21 the taxes for the County Commissioners under
22 the control of the County Commission when you
23 do this.

24 Now, I represent every type of local
25 government. I have been a lawyer 40 years so I

1 qualify, Commissioner Schifino, for four, four
2 Circuit Court's judgeships, all right, and I
3 would deal with your traffic record quickly.

4 The reality is, you are turning, you are
5 then putting the fox to watch the henhouse, and
6 don't think that these charter, these counties,
7 I have been to the meetings, they are talking
8 about this among themselves, that is why it is
9 popping up.

10 You can gain more control, you can be the
11 total power in the county. Realize something,
12 in a lot of counties, I represented all of the
13 Sheriffs in the state, the most powerful person
14 in the county is the Sheriff, all right. So
15 what do you do if you get elected and you want
16 to to be on the most powerful and you are on
17 the County Commission, let's make that person
18 subordinate, all right.

19 That is what is going on, and if you
20 really go back and study the history of
21 creating charters, it was done, not for these
22 purposes, it was done to give counties the
23 creative power regarding building projects,
24 financings, issues of that nature, not to let
25 them run roughshod politically over other

1 elected officials.

2 So I applaud you because I think you are
3 trying to say, wait a second, this is a level
4 playing field. Nobody is getting anybody to
5 eliminate positions. So with that, I will be
6 supporting the amendment.

7 CHAIRMAN BERUFF: Commissioner Stemberger
8 is recognized.

9 COMMISSIONER STEMBERGER: Thank you, Mr.
10 Chairman. I was on the Local Government
11 Committee, and one of the arguments that we
12 heard, and I support this good proposal,
13 Commissioner Timmann, one of the arguments that
14 we heard is that why are you forcing to allow
15 every voter in the state to tell a county what
16 to do?

17 Well, from 2005 to 2008, I actually was
18 the Chairman of a Citizens Initiative Amendment
19 to Article I, passed by 62 percent of the vote.

20 And in dealing with all of the Supervisors
21 of Elections, every single one of them
22 cooperated except for Miami-Dade County.

23 We almost -- and obviously the politics of
24 those that were over the supervisor were
25 opposed to our amendment. And so we almost

1 thwarted the will of the people in this
2 particular amendment, because I couldn't get
3 them to cooperate in processing petitions. We
4 almost, almost had a, looked at having
5 injunctive relief from the Court in order to
6 get the supervisor to do their job in a timely
7 fashion, so that we knew whether we had the
8 petitions we needed to put on the ballot. So
9 what happens in Miami-Dade doesn't stay in
10 Miami-Dade.

11 It does potentially affect the entire
12 state, and there may be other examples, but
13 this is certainly one where I would be very
14 much in favor of that simply on that example
15 alone.

16 CHAIRMAN BERUFF: Commissioner Martinez is
17 recognized.

18 COMMISSIONER MARTINEZ: I stand up in
19 defense of Miami-Dade County. So in Miami-Dade
20 County, interesting county, we had a major
21 trial in, what I would say, 199 - 2008 in which
22 a private party retained me to sue the County,
23 and we lost at the trial court level and it
24 dealt with using public funds to build a
25 baseball stadium.

1 We lost that, and took it up to the Third
2 DCA and we lost there also, and my client
3 decided to institute a recall of the Mayor of
4 Miami-Dade County, and they had to work through
5 the office of the Supervisor of Elections,
6 which is a non-elected official, and he was
7 able to do that. Now mind you, my client is a
8 person of great resources.

9 But he was able to mount that challenge
10 and the Mayor of Miami-Dade County, in an
11 election that was supervised by the Supervisor
12 of Elections, an appointed position, was
13 recalled, 92 percent of the votes. So even in
14 a place like Miami-Dade County, where we have
15 an appointed Supervisor of Elections, we have
16 an appointed Sheriff, we have actually a form
17 of government that works very well for us.

18 And speaking on behalf of my county, I
19 don't see why I would want to give up the
20 discretion that we currently have to choose the
21 type of government that we want to choose, and
22 this is basically doing that.

23 It is forcing us to give up that right and
24 put it in the hands of the State of Florida,
25 and although I appreciate where you are coming

1 from, I just think the government that works
2 best is the government that is most responsive
3 to the people of the local level, and you would
4 be amending that in the case of Miami-Dade
5 County.

6 Because right now if we wanted to, we
7 could choose to, if we wanted to in Miami-Dade
8 County, the electorates could choose to have an
9 elected Sheriff, or an elected Supervisor of
10 Elections. But we have chosen not to go that
11 way.

12 So what you will be doing with regards to
13 your proposal, is you would be requiring us, if
14 the voters approve the amendment, to give up
15 that right, and I just don't see why we would
16 want to do that.

17 CHAIRMAN BERUFF: Commissioner Lester is
18 recognized.

19 COMMISSIONER LESTER: Thank you,
20 Mr. Chair. I am going to sort of build on
21 Commissioner Martinez's comments. It seems to
22 me that there really are some very valid
23 arguments on each side. There are strengths to
24 the system where all of these officers are
25 elected directly, but three counties in which I

1 deal with on a daily basis, all three elect all
2 of those officials. So I don't deal personally
3 with, with the government like Miami-Dade.

4 But it seems to me that there are some
5 legitimate reasons why that county or any
6 county might choose to go, to do it that way,
7 and I am struggling with why we would want to
8 foreclose that option to the people of a county
9 like Miami-Dade or any other county, and
10 apparently there are 20 or so that have chosen
11 to go that route, would want to do that.

12 And then I just -- my other comment was I
13 am struck by the irony of trying to decide
14 which system is more political, and I hear us
15 talking about political. So somehow the system
16 that has less elected politicians is somehow
17 construed to be less political.

18 It seems to me it is going to be political
19 either way it goes, it is just a matter of
20 where that power is.

21 I know that -- I am aware of several
22 counties and some of the folks, some of our
23 veteran legislators probably know of more
24 examples than I do, where elected legislators
25 have gone home to their counties, for example,

1 and been elected to county offices which at
2 least on the surface, and I am not speaking to
3 any particular case, but on the surface they
4 have no professional qualifications or training
5 or background to be a Property Appraiser or a
6 Tax Collector or a Supervisor of Elections, and
7 it seems, so that is -- but they get elected
8 because they are the most well-known people in
9 that area.

10 Match that up against the system where a
11 County Commission might actually be able to
12 hire someone who isn't a politician, who isn't
13 well-known, but actually has training to be a
14 Property Appraiser or a Tax Collector. It
15 seems to me you could at least make the
16 argument that is a much less political way of
17 going about it.

18 Again, I can see the strengths of either
19 system, and it seems to me that the county
20 should be allowed to weigh that out and to make
21 the decision they think best for their
22 individual county. So I -- and there is a lot
23 of merit, I appreciate all of the work that is
24 going into it.

25 I am going to vote against it, but I do

1 appreciate the arguments on both sides of it.

2 CHAIRMAN BERUFF: Commissioner Coxe is
3 recognized.

4 COMMISSIONER COXE: Thank you, Mr. Chair.
5 One of the joys of serving on this Commission
6 is to meet people I have never met before, and
7 developed very, very close relationships with
8 them. And with respect to Commissioner
9 Timmann, I will say I have probably gotten to
10 know her better than anybody else in this room
11 because of this issue.

12 We laugh, we talk about it, and I am the
13 one who voted against it at Ethics and
14 Elections, obviously. I disagree with
15 Commissioner Kruppenbacher. I do not think the
16 electorate is uninformed. If I thought the
17 electorate was uninformed I would have never
18 agreed to sit in this room and participate in
19 this process.

20 I agree with Commissioner Smith. He
21 mentioned, he used the phrase home rule. Home
22 rule would have meant nothing to me before I
23 got involved in this process. It is not part
24 of my world. A lot of these issues have not
25 been part of my world.

1 But in looking at this proposal, the
2 concern I have always had, and so we get it in
3 perspective, we are talking in the State of
4 Florida about telling Brevard County what they
5 have to do and change; Miami-Dade County, what
6 they have to do and change; Volusia County,
7 what they have to do and change; Broward
8 County, what they have to do and change; Clay
9 County, what they have to do and change; Duval
10 County, what they have to do and have to
11 change.

12 Orange County, what they have to do and
13 change, and Osceola County. So we could sit in
14 this room and put on the ballot a provision
15 that tells probably millions of citizens that
16 they didn't know what they were doing when they
17 created their form of government in their
18 respective counties. That is essentially what
19 we are saying to those counties.

20 You didn't know what you were doing, and
21 even know each of you in those counties has the
22 ability to change, you are not astute enough to
23 change to do it the way we think is better, and
24 I think that is a horrible mistake, and that is
25 contrary to what we heard at every public

1 hearing we had, leave us alone in local
2 government. We know what we are doing.

3 Thank you.

4 CHAIRMAN BERUFF: Any further
5 Commissioners on debate? Commissioner Solari,
6 I apologize, I was looking to the left.

7 COMMISSIONER SOLARI: Thank you very much,
8 Mr. Chairman, and I am the one who voted
9 against there at the Local Government
10 Committee. It is rare when I can basically
11 agree so well on all the main points, but come
12 to different conclusions.

13 I agree the separation of powers is very
14 important. But I don't see this as in any
15 sense a constitutional sense about separation
16 of powers.

17 As I understand separation of powers, it
18 is about the Legislative, Judicial and the
19 Executive Branches and these are all executive
20 functions. So again, it is not -- and you
21 mentioned yourself, they do not set policy, no,
22 they execute policy. I agree that we should
23 let all Floridians decide. But I agree that
24 they should decide as individual counties, not
25 as a collective state.

1 I agree that home rule is important, and
2 here, trust me, Commissioner Lee will attest I
3 believe about that. But as I see it, each,
4 each community should decide locally, not as a
5 state, about what their own home needs and that
6 is some of the reasons why we have diversity we
7 have today, is because different counties
8 develop differently.

9 Because right now we are not a homogenous
10 whole and we should never be, and I certainly
11 don't stand up for Miami-Dade's community,
12 because first of all I am not a resident, and
13 second, it is too crowded for me to ever go
14 down there.

15 But I believe every county should be able
16 to make their own mistakes, and maybe it will
17 be a mistake to go one way or the other way,
18 But the individual counties and the voters in
19 the individual counties, ought to make and
20 decide that.

21 I believe we have a great run on the
22 Treasure Coast today. The large counties
23 believe that high speed rail is the greatest
24 thing in the world. Our communities on the
25 Treasure Coast are radically different. We are

1 low-density counties, we have chosen that. We
2 are different. We cannot possibly govern the
3 same way Miami-Dade governs and have the type
4 of communities we want on our very special
5 local level.

6 So while I agree with so much of what the
7 Commissioner says, on this issue I will be
8 voting against her.

9 CHAIRMAN BERUFF: Commissioner Nocco is
10 recognized on debate.

11 COMMISSIONER NOCCO: Thank you, sir. One
12 thing in respect about Sheriffs being the most
13 popular, if I had a framed photo like President
14 Pruitt I would agree like that, however, I
15 don't have a framed photo like that up there.

16 You talk about, one thing, talk about the
17 sheriffs and constitutional officers, and one
18 thing, we do set policies. People elect
19 constitutional officers because of decisions
20 that we are going to make.

21 When we have to go out on campaign we tell
22 the citizens what we are going to do, how we
23 are going to do it. Are we going to engage a
24 threat or are we going to tell people to sit
25 back. Are we going to arm the SROs and

1 everybody in the schools, or how are we going
2 to act?

3 Those decisions are critical today. They
4 are important in races; they are important to
5 what people want to hear when they choose the
6 Sheriff, when they choose the Tax Collector,
7 the Property Appraiser. Those are not
8 decisions people want done by a County Manager
9 or a County Mayor.

10 They want them done directly by the person
11 who has to go out there and stand forward; when
12 things go good, they stand forward and they
13 praise the people and push them in front of
14 them. When things go bad, they are the ones
15 that have to take responsibility for their
16 actions.

17 This is about electing those that our
18 citizens expect to get the job done. This is
19 about citizens in the state of Florida having
20 the opportunity to choose those that serve
21 them; to have that opportunity to say I don't
22 like what that person stands for, I am not
23 voting for them.

24 As everybody in this room has one or two
25 or three of these phones, you know what it is

1 like to have consistently people ringing,
2 getting ahold of you, e-mails, that is because
3 I have to answer to about half a million people
4 in Pasco County. I don't answer to one county
5 manager. I answer to half a million people.

6 So when we talk about what is important to
7 us, what is important to the citizens, it is
8 having a servant leader and that is what we as
9 elected individuals are supposed to be is
10 servant leaders, not beholden to one.

11 CHAIRMAN BERUFF: Any further debate on
12 Proposal 13?

13 Commissioner Donalds is recognized.

14 COMMISSIONER DONALDS: Thank you,
15 Chairman. I support this proposal for many
16 different reasons, but the first one I will go
17 through. These are constitutional officers.
18 They have constitutional duties, and they are
19 part of a governmental framework that our state
20 and our Constitution has laid out for each of
21 the counties to follow, and while -- where I am
22 from, Collier County is not currently a charter
23 county.

24 I support this proposal because if they do
25 become a charter county down the road I do not

1 want, among all of the provisions that could be
2 put forth in a charter and discussed and
3 debated among a Charter Review Board and among
4 the electorate in my county, this to be tucked
5 away, taking away my right to vote for the
6 constitutional officers that I believe should
7 be independent and should answer directly to
8 the people.

9 I want to first mention the Clerk of
10 Court, because as a CPA I understand the
11 principle of independence that is absolutely
12 required for the Clerk in their duties as Clerk
13 and Comptroller to hold the County Commission
14 accountable and to audit the County Commission
15 spending.

16 If the Clerk of Court works for the County
17 Commissioners, then they lose their
18 independence and their ability to hold to that
19 independence principle and to do their job for
20 the people, on behalf of the people, to
21 thoroughly audit and hold the County Commission
22 accountable for the spending of our tax
23 dollars.

24 The Supervisor of Elections must be the
25 top authority for elections laws in the county.

1 They have to hold those County Commissioners
2 accountable for following the elections laws of
3 our state. If they work for the County
4 Commission, that inhibits their independence to
5 hold those County Commissioners accountable to
6 elections laws as they should.

7 The Property Appraiser, as was mentioned,
8 should not be under the entity for which they
9 would be setting the revenues, because we don't
10 want them working toward a desired end, a
11 desired revenue.

12 We want them to be independently working
13 for the people that elected them, to accurately
14 assess the properties with no thought to their
15 bosses and how much money that they will be
16 bringing in on behalf of the County Commission.

17 And the Sheriff. I want my Sheriff to be
18 the top law enforcement authority in my county.
19 I do not want them inhibited whatsoever by
20 anyone above them, who I expect for them to
21 hold accountable to the law.

22 That is why I support this proposal and I
23 want to thank you, Commissioner Timmann,
24 Commissioner Nocco and Commissioner Gainey for
25 bringing this forward. I think it is a very

1 important constitutional issue for this body to
2 consider. Thank you.

3 CHAIRMAN BERUFF: Further debate,
4 Commissioner Gainey is recognized.

5 COMMISSIONER GAINNEY: Thank you,
6 Mr. Chair, and the famous legislative last
7 words, I wasn't going to say anything, but now
8 I am.

9 I just want to address one point from a
10 safety issue. You know, Sheriffs have had a
11 mutual aid agreement in this state for many,
12 many years. One phone call we can put dozens
13 upon dozens and hundreds upon hundreds of law
14 enforcement officers anywhere in this state
15 that we need them, and we have exercised that
16 on many occasions.

17 Hurricanes, natural disasters, recent
18 little incident down in Gainesville, Florida,
19 one phone call, hundreds of law enforcement
20 officers.

21 All due respect to my fellow law
22 enforcement police chiefs, they simply can't do
23 it. They have to go through a City Manager or
24 City Mayor, a City Commission and those
25 agreements are not in place. This very moment

1 we make one phone call to our association who
2 has the in-place mutual aid agreement, it has
3 been in place for years, and we can send deputy
4 sheriffs in a matter of moments with full
5 authority to any county in this state.

6 That is the beauty of independent-elected
7 sheriffs who can do that and not having to go
8 through and wait for a County Manager or a
9 County Commission to give us permission to do
10 so; it is a safety issue. Thank you,
11 Mr. Chair.

12 CHAIRMAN BERUFF: Further debate on
13 Proposal 13? Commissioner Heuchan.

14 COMMISSIONER HEUCHAN: Thank you, Mr.
15 Chairman. I am rising today to support this
16 proposal as well. I voted for this proposal
17 in, I think twice, general provisions. I don't
18 know, I voted for it as often as I could and I
19 will tell you why.

20 And I want to -- I voted primarily for the
21 reasons that Sheriff Nocco and Sheriff Gainey
22 mentioned. But I also want to talk about this
23 notion of home rule and not home rule and what
24 are included in these charter review proposals
25 and what go through these charter review

1 panels.

2 I was also, like Chairman Coxe, a little
3 unaware of when these things happen and how
4 they happen. But I did come to find out that
5 as these charters were amended in many cases,
6 it is not only about the election and the
7 independence of the -- and the sovereignty,
8 frankly, of these constitutional officers.

9 It included many other things in some
10 cases, not in every case. So my feeling on
11 this is, is that if the voters of Miami-Dade
12 and the voters of Broward and the voters of
13 Clay and Duval and Osceola and the laundry list
14 that Chairman Coxe mentioned, don't want to
15 have the discretion to elect their Sheriff or
16 their Property Appraiser or their Clerk, then
17 they will vote no in November should this make
18 it.

19 And I would suggest to you that if they do
20 that en masse the proposal will fail at the
21 ballot box. So for those reasons I am
22 supporting it and thank you for your time.

23 CHAIRMAN BERUFF: Further debate on
24 Proposal 13? Seeing none, would you like to
25 close, Commissioner Timmann, on your Proposal?

1 COMMISSIONER TIMMANN: I would,
2 Mr. Chairman, thank you. I wasn't going to say
3 quite as much, but I felt like there were a
4 couple of questions thrown out in the room
5 under the guise of debate. So I may just
6 respond to a couple of those in my close.

7 With all due respect to Broward County, I
8 heard a lot from Broward County, I think we all
9 did, and they are very strong advocates for
10 their county. But I think one thing that
11 really impacted me through all of this, is when
12 I was hearing these strong voices, it was not
13 from the elected officials. It was from the
14 County Managers and administrators and others,
15 county employees.

16 Because I believe they were concerned
17 about their own power, and that is very
18 disturbing to me, and I think because of the
19 way -- as strong as a few counties did fight
20 it, that made me feel even more strongly about
21 the proposal, that why don't they want them to
22 vote directly on this issue.

23 Some of these charter review -- the
24 Charter Review Boards are commissions, are
25 appointed by the County Commissioners. They

1 have a goal in mind before they start that
2 whole process.

3 The questions can be so convoluted. In
4 one county it was, do you want to elect your
5 county constitutional officers and have them be
6 part of the charter government? I am informed
7 and I would say, well, of course I do. What
8 they didn't understand is they were electing
9 those independent officials, constitutional
10 officers to do all of these duties and
11 responsibilities.

12 Then they are under contract and they have
13 to report to the County Manager, who then
14 reports to the Board of County Commissioners.
15 That is not directly representing the people,
16 and there is more like that.

17 I don't want to say the voters don't know
18 what they are doing or they are uninformed. I
19 think it is more that the way these questions
20 are put to them aren't clearly and fairly, and
21 that is all I am asking, let's ask them
22 directly if they want to do this.

23 Do they want to elect their Sheriff for
24 independent investigations in law enforcement?
25 Do they want to elect their Property Appraiser

1 for these independent assessments on which
2 their property and residential taxes are based?

3 That means a lot to people. Do they want
4 independent Supervisors of Elections to make
5 sure those elections are fair? Do they want
6 their independent Clerks and Comptrollers to
7 make sure that there is a segregation between
8 the appropriators and watching over those
9 funds, making sure that there is a public
10 purpose for every expenditure.

11 I believe that they do, and our Tax
12 Collectors, who are so focused on customer
13 service, and I believe, again, Commissioner
14 Smith, I think you even mentioned it in our
15 committee meeting, you don't even know the name
16 of who collects your taxes.

17 And this is about bringing that back to
18 the people, us standing toe to toe with them,
19 being directly accountable, being directly
20 responsible for everything we do, and they will
21 know who does it and how to hold them
22 accountable. So I believe this is a very
23 important proposal.

24 I am going to quote from the Keep It Local
25 Florida Newsletter. This is all about home

1 rule. This is what their newsletter is for. I
2 subscribe to it. It says, "It is easier to
3 hold local officials accountable, because we
4 see them at church, the grocery store, the
5 school pickup line and elsewhere." That is
6 absolutely true. This is what home rule is.
7 It is local elected officials being accountable
8 to the people; that is all this proposal is,
9 let them decide if they want to hold us
10 accountable every single day.

11 With that, I think I would like to close
12 and I would be honored to have the votes to
13 move this forward to Style and Drafting.

14 Thank you.

15 CHAIRMAN BERUFF: Thank you. Secretary,
16 please unlock the board. Commissioners, please
17 vote.

18 Has everybody voted?

19 Thank you. Please close the board and
20 announce the vote.

21 THE SECRETARY: Twenty-six yea's, seven
22 nay's, Mr. Chair.

23 CHAIRMAN BERUFF: The motion is adopted,
24 the Proposal will go to Style and Drafting
25 Committee. Thank you. That is too much

1 excitement, thank you.

2 We will now take up Proposal 39.

3 Commissioner Gaetz, would you like to
4 explain your Proposal to us?

5 COMMISSIONER GAETZ: Thank you very much,
6 Mr. Chairman. Five years ago a public
7 integrity watch dog group labeled Florida the
8 most corrupt state in the union. I am not sure
9 that is fair to Louisiana, or Alabama, or
10 Illinois, or reunions of former Governors have
11 to be held during visiting hours, and its no
12 longer I think, a fair label to pin on Florida.

13 In the last five years the Florida
14 Legislature has enacted seven important ethics
15 laws that raise and strengthen the standards of
16 personal conduct in public office. But if you
17 read the reports of the last two statewide
18 Grand Juries, the findings of the Florida
19 Public Corruption Commission, or even recent
20 media reports, you know that when it comes to
21 ethics in government, Florida still has some
22 things to be embarrassed about and plenty that
23 we can do better.

24 It is a theme that came up, Mr. Chairman,
25 at every one of our public hearings, that our

1 politics and our politicians at every level
2 should be more transparent, less
3 self-interested and more ethical.

4 Proposal 39 is sponsored by Commissioners
5 Kruppenbacher, Heuchan, Schifino and myself,
6 but it is really the product of the entire
7 Ethics and Elections Committee that spent two
8 months work-shopping this proposal and making
9 it much better than our original version.

10 Proposal 39 raises ethical standards in
11 areas which have been identified as serious
12 deficiencies by the Commission on Ethics and
13 the statewide Grand Jury.

14 Specifically our proposal would first
15 prohibit elected, statewide elected officials,
16 legislators and local elected officials who
17 have ad valorem taxing authority from being
18 paid lobbyists at the same time they are
19 holding public office.

20 Under present law and in recent practice
21 sitting legislators and local officials have
22 been registered lobbyists paid to represent
23 private interests at the same time they were
24 public officials elected to represent all
25 citizen's interests.

1 Proposal 39 draws a bright line. You
2 can't serve in an elected office voting on
3 policies and appropriations that affect or
4 involve other levels of government at the same
5 time that you are being paid to appear before
6 those other governments as a lobbyist for
7 private interests.

8 Number two, Proposal 39 would close the
9 revolving door between holding public office
10 and lobbying for private interests. Under
11 present law, statewide elected officials and
12 the heads of state agencies can become
13 lobbyists before the Legislature, and before
14 most of the Executive Branch on the day they
15 leave public office.

16 A State agency head who yesterday awarded
17 contracts to companies which may be political
18 contributors and hired employees who may be
19 legislators, supporters and relatives, could
20 tomorrow be lobbying that Senator or
21 Representative for appropriations for a private
22 interest.

23 That entangles public office and lobbying
24 too closely and too soon. This proposal hold
25 bans statewide elected officials and state

1 agency heads from lobbying the Legislature, the
2 Cabinet, or the agency they headed for six
3 years after they leave office.

4 Under present law, legislators have a
5 two-year lobbying ban. This proposal picks up
6 a proposal by Senator Rouson, and extends the
7 lobbying ban on legislators to six years.

8 The statewide Grand Jury found that the
9 revolving door between holding office and
10 lobbying undermines the integrity of local
11 government. So Proposal 39 says that local
12 elected officials who have ad valorem taxing
13 authority, School Board members, County
14 Commissioners, Mayors, would be barred from
15 lobbying the same commission or the same board
16 that they sat on for six years after they leave
17 office.

18 Third, Mr. Chairman, Proposal 39 extends
19 the higher ethical standards to the judiciary
20 as well.

21 Former Justices, and Judges, likewise
22 would have a six-year lobbying ban before state
23 government, except that this proposal of course
24 specifically affirms the right of former Judges
25 to practice law and represent their clients

1 before any judicial tribunal.

2 Fourth, Proposal 39 prohibits a public
3 official from abusing her or his office to
4 obtain a disproportionate benefit for her or
5 himself, or spouse, or children, or employer,
6 or business partners, based on their public
7 decisions in public office.

8 Of course, Mr. Chairman, we want farmers
9 in the Legislature to vote on agriculture
10 Bills. We wants doctors and hospital
11 executives in the Legislature to use their
12 subject area expertise to shape health care
13 policy. We want architects and bankers to
14 serve on School Boards. We have a citizen
15 government in Florida.

16 Proposal 39 says that in the shaping of
17 public policy or in the appropriation of public
18 funds, a public official cannot give himself or
19 herself or his or her family or business
20 interests a disproportionately greater benefit
21 than other farmers or other hospitals or other
22 architectural firms or banks might receive from
23 legislative matters or appropriations.

24 The proposal directs the Commission on
25 Ethics to define requisite intent and

1 disproportionate benefit and provides that
2 penalties would be established in law.

3 There is an amendment which clarifies
4 certain technical points which relate to the
5 underlying proposal and that amendment can be
6 explained in due course. But the underlying
7 proposal makes clear that a public official
8 cannot at the same time he serves or she serves
9 in public office, be a paid lobbyist for
10 private interests. Proposal 39 closes the
11 revolving door between public office and
12 private lobbying.

13 And finally, Proposal 39 prohibits public
14 officials from misusing the public trust to
15 obtain disproportionate benefits for
16 themselves.

17 That is the underlying proposal and there
18 is an amendment, Mr. Chairman, which at your
19 pleasure we can explain.

20 CHAIRMAN BERUFF: Questions on Proposal 39
21 first. Commissioner Smith is recognized.

22 COMMISSIONER SMITH: Thank you.
23 Commissioner Gaetz, could you briefly explain
24 the difference between say a lobbyist and a
25 land use lawyer that may represent a client in

1 front of a planning and zoning board or some
2 type of local quasi judicial thing that they, a
3 legislator who may be a land use lawyer?

4 CHAIRMAN BERUFF: Commissioner Gaetz, you
5 are recognized.

6 COMMISSIONER GAETZ: Thank you, Mr.
7 Chairman. Thank you, Senator Smith. A
8 lobbyist is an individual who is, is a paid
9 advocate who represents for compensation before
10 a public board to seek an appropriation or to
11 influence public policy.

12 Lobbying is defined in statute and
13 lobbying for compensation is defined in statute
14 and it is lobbying for compensation that, that
15 is -- what is -- what is at issue in Proposal
16 39.

17 A land use lawyer as far as I know and I
18 am not an attorney and I defer to you in that
19 regard, a land use lawyer is practicing law
20 before a judicial tribunal, but I would perhaps
21 defer to other attorneys who are here present
22 as to what constitutes lobbying and what
23 constitutes simply representing a client.

24 But if you are, if you are a paid
25 lobbyist, if you are paid compensation to

1 influence public policy or to seek an
2 appropriation, you would not be able to do that
3 at the same time that you hold public office.

4 CHAIRMAN BERUFF: Questions? Commissioner
5 Rouson is recognized.

6 COMMISSIONER ROUSON: Thank you very much,
7 Mr. Chair. And just so that we can be clear to
8 the extent that this proposal drills down, what
9 is the prohibition on Judges, former Judges?
10 How does this prohibit former Judges, if a guy
11 is serving as a Circuit Court Judge and steps
12 off the Bench because he completes a term or
13 otherwise resigns, can he go before tribunals,
14 paid compensation to lobby?

15 CHAIRMAN BERUFF: Recognize Commissioner
16 Gaetz.

17 COMMISSIONER GAETZ: Thank you,
18 Mr. Chairman. I will, with the Chair's
19 permission, point out that there is a -- an
20 amendment that further clarifies this matter.
21 But the underlying Bill says that a former
22 Judge or a former Justice would not, of course,
23 be prohibited from practicing law and appearing
24 before any judicial tribunal.

25 An amendment which we will get to, makes

1 clear that that includes a quasi judicial body
2 such as the Public Service Commission, or a
3 DOAH hearing.

4 CHAIRMAN BERUFF: Commissioner Rouson.

5 COMMISSIONER ROUSON: Thank you very much,
6 Mr. Chair. And also, would you clarify how
7 this inhibits or prohibits a School Board
8 member, who completes a term or otherwise
9 resigns from going in front of the School Board
10 that they formerly served on, on behalf of a
11 private interest for compensation? Does it
12 capture that?

13 CHAIRMAN BERUFF: Commissioner Gaetz, you
14 are recognized.

15 COMMISSIONER GAETZ: Thank you very much,
16 Mr. Chairman. Senator Rouson, the proposal
17 provides that if you are a School Board member
18 you would not be allowed to lobby the School
19 Board that you served on for six years after
20 you leave office.

21 If you are a private attorney and you are
22 appearing before a judicial tribunal, that is
23 another matter, having been a School Board
24 member. But if you -- I am a former School
25 Board member, and when I left the School Board,

1 I would not if this proposal became law, I
2 would not be able to turn around the next day
3 and appear before the School Board that I
4 served on, that perhaps I was Chairman of, I
5 developed relationships with and say, well,
6 here I am representing for compensation
7 somebody who wants a contract with the School
8 Board for building materials or architectural
9 services or engineering services or paper
10 products or to convince you that you ought to
11 change the way that you deal with school
12 choice.

13 I would not be able to do that as a paid
14 lobbyist after I left the School Board. If I
15 want to appear as a citizen and speak my mind,
16 there is nothing here, of course, that prevents
17 anyone from exercising their First Amendment
18 rights so long as they are not a paid lobbyist
19 for compensation.

20 CHAIRMAN BERUFF: Commissioner Rouson.

21 COMMISSIONER ROUSON: Thank you very much,
22 Mr. Chair.

23 CHAIRMAN BERUFF: Commissioner Rouson.

24 COMMISSIONER ROUSON: Thank you very much,
25 Mr. Chair. And likewise, a Mayor in either a

1 strong Mayor form of government or a weak Mayor
2 form of government, can a Mayor lobby for
3 compensation, the former City Council that he
4 or she may have had a relationship with during
5 their term as Mayor?

6 CHAIRMAN BERUFF: Commissioner Gaetz.

7 COMMISSIONER GAETZ: Thank you, Mr.
8 Chairman. Under the underlying proposal, no,
9 sir.

10 CHAIRMAN BERUFF: Commissioner Rouson.

11 COMMISSIONER ROUSON: Thank you. Are you
12 aware of abuses, any specific examples of a
13 former Mayor or a Judge that prompts this type
14 of specificity?

15 CHAIRMAN BERUFF: Commissioner Gaetz.

16 COMMISSIONER GAETZ: Thank you, Mr.
17 Chairman. Just Senator Rouson, sadly, in my
18 own county we have an example. I am sure there
19 are many others and we can go through as many
20 as you would like. In my own county we have
21 had a circumstance in which an individual
22 served on the County Commission and the day,
23 literally the day after he left office, he
24 became a lobbyist for the company that had the
25 garbage contract. And as a County Commissioner

1 he voted on that very same contract and then
2 turned around and became their lobbyist to his
3 former colleagues.

4 We have examples in, in other places in
5 Florida where City Commissioners have done the
6 same thing, and in my judgment, and this is
7 certainly a value judgment on my part, but it
8 is part of the underlying proposal, that is an
9 inappropriate monetizing of public office for
10 private gain.

11 CHAIRMAN BERUFF: Further questions on
12 Proposal 39?

13 Commissioner Diaz is recognized.

14 COMMISSIONER DIAZ: Thank you, Mr.
15 Chairman. I believe there is a prohibition for
16 a lot of these acts. But what are the
17 consequences if the prohibitions are violated?

18 CHAIRMAN BERUFF: Commissioner Gaetz.

19 COMMISSIONER GAETZ: Thank you, Mr.
20 Chairman. The proposal provides that the
21 Legislature would establish penalties that
22 would be appropriate. And so therefore the
23 Constitution, itself, would not, if this
24 proposal were adopted, establish particular
25 penalties. In my judgment, that should be left

1 to the Legislature.

2 CHAIRMAN BERUFF: Commissioner Diaz.

3 COMMISSIONER DIAZ: I don't know the
4 answer to this. Can -- can the State
5 Constitution prohibit somebody from lobbying
6 before the Federal Government or federal
7 agency?

8 CHAIRMAN BERUFF: Commissioner Gaetz.

9 COMMISSIONER GAETZ: Thank you, Mr.
10 Chairman. The State -- I am not a lawyer, so I
11 defer to competent counsel present. I believe
12 that the State Constitution can say that if you
13 want to be a public official in the State of
14 Florida. If you want to be a member of the
15 Florida Legislature, you should not be a
16 registered lobbyist before the Congress of the
17 United States.

18 Sadly, We have had instances and do have
19 instances where sitting members of the
20 Legislature have been registered lobbyists
21 before other levels of government. I believe
22 that the State of Florida can speak to the --
23 to whether or not an individual can be a public
24 official if they take certain acts or act in
25 certain ways. But obviously, we cannot

1 prescribe for the Congress of the United States
2 who can appear as a lobbyist before them.

3 CHAIRMAN BERUFF: Commissioner Diaz.

4 COMMISSIONER DIAZ: Does this legislation
5 address staff at all, or are we only talking
6 about executive officers and local elected
7 officials? Does it deal with staff?

8 CHAIRMAN BERUFF: Commissioner Gaetz.

9 COMMISSIONER GAETZ: Thank you, Mr.
10 Chairman. The proposal only does not deal with
11 staff, unless you would consider the head of an
12 executive agency to be staff. The Secretary of
13 AHCA, I suppose in some views would be staff to
14 the Governor, but they are -- there is nothing
15 in this, in this proposal that deals with
16 anyone other than elected officials at the
17 local level, elected officials who have ad
18 valorem taxing authority.

19 So therefore that would not include
20 constitutional officers, and then at the state
21 level, statewide elected officials and the
22 heads of State departments.

23 CHAIRMAN BERUFF: Commissioner Diaz.

24 COMMISSIONER DIAZ: And final question. I
25 am sure you went through this exercise in your

1 head. Can you give us the cost benefit
2 analysis of the chilling effect that this might
3 have on some folks not running for office
4 because of the fears that they might have that
5 this might impair their ability to have a job
6 post their service?

7 CHAIRMAN BERUFF: Commissioner Gaetz.

8 COMMISSIONER GAETZ: Thank you very much,
9 Mr. Chairman, and thank you, Representative
10 Diaz, for that question. There is a cost
11 benefit analysis. We have about 20 million
12 people in the state of Florida, and there might
13 be some people who say if I run for public
14 office that is a way for me to then use the
15 dignity and prerogatives of that office to
16 improve my own private net worth or improve my
17 employability or improve my -- my ability to
18 help my family or my business associates
19 receive a disproportionate benefit.

20 Those who believe that that ought to be on
21 the plus side of the cost benefit analysis
22 ought to vote against this underlying proposal.
23 In my view, we ought to take a stand in the
24 state of Florida and say you are either a
25 lobbyist or you are an official. You should

1 not seek disproportionate benefit from being in
2 public office. It is an honor, it is a
3 privilege, it is an obligation. It is not an
4 opportunity to monetize for private gain.

5 And taking Senator Rouson's great idea
6 that he had earlier in the process and, and
7 picking up with deference the Bill that passed
8 the Florida House of Representatives, we ought
9 to have a bar from individuals who serve in
10 public office from turning around and rather
11 immediately being able to use the relationships
12 that they have developed in public office in
13 order to become paid lobbyists, and that is
14 what this Bill would do.

15 CHAIRMAN BERUFF: Commissioner Smith is
16 recognized.

17 COMMISSIONER SMITH: Thank you.
18 Commissioner Gaetz, in view of -- when you were
19 Senate President you passed a lot of ethics
20 reform and the Legislature has done that for
21 the last couple of years. And in view of the
22 concern we have with specifics, like my
23 question regarding a land use lawyer and how
24 exactly that would be defined because land use
25 lawyers do have to register as lobbyists with

1 the entities.

2 In view of all of that, why should we put
3 this in the Constitution and not leave it to
4 the Legislature, who can define it more
5 specifically, those points, and deal with those
6 points? Why is it necessary for the
7 Constitution, instead of leaving it for the
8 Legislature for statutory reform?

9 CHAIRMAN BERUFF: Commissioner Gaetz.

10 COMMISSIONER GAETZ: Thank you,
11 Mr. Chairman. Commissioner Smith, many of us
12 in this room have the rare privilege while he
13 was alive, to get to know Governor Reubin
14 Askew. Some people here got to know him very
15 well. I got to know him to some extent, such
16 that we broke bread together and he invited me
17 to speak to his classes a couple of times, and
18 he came to my office and counseled me about
19 ethics issues.

20 And Governor Askew said something to me
21 when we were working on one of those Bills
22 which you supported and helped make -- pass
23 into law, one of those strong ethics Bills,
24 Governor Askew said to me, you know, Don, all
25 of government in the sunshine, all of the laws

1 that we passed on government in the sunshine,
2 all of the constitutional changes we made, none
3 of them needed to be in the Constitution.

4 All of them could have been passed by the
5 Florida Legislature, but he said, they never
6 would have, and that is why he said he had to
7 go to the people in order to establish
8 government in the sunshine in Florida, which
9 became a model for America.

10 And that is why he encouraged me and many
11 others to advance ethics legislation, not just
12 in the legislative process, but if necessary,
13 in the constitutional process.

14 If we pass this underlying proposal, it
15 will represent the strongest ethical standards
16 that any state has ever adopted with respect to
17 its public officials. That is not going to
18 happen in the Florida Legislature, not because
19 we don't have great people like some of the
20 legislators and former legislators who are in
21 this room, but because we have, just as Senator
22 Lee said earlier, special interests who find it
23 to be in their interest to maintain a lower
24 ethical standard and an easier way for
25 monetized transactions to occur by and between

1 the lobbying community and public office.

2 So I guess my best answer, Senator Smith,
3 is just to say there aren't all of these people
4 like Chris Smith in the Legislature, there
5 aren't all of those people who will stand up
6 for doing the right thing and Governor Askew
7 was right. This belongs in the Constitution.

8 CHAIRMAN BERUFF: Commissioner Stemberger
9 is recognized.

10 COMMISSIONER STEMBERGER: Commissioner
11 Gaetz, I have several questions just
12 clarifying, primarily. So we are amending an
13 existing provision of the Constitution that
14 currently regulates lobbying to two years out,
15 is that correct?

16 CHAIRMAN BERUFF: Commissioner Gaetz.

17 COMMISSIONER GAETZ: Thank you,
18 Mr. Chairman. Yes, sir.

19 CHAIRMAN BERUFF: Commissioner Stemberger.

20 COMMISSIONER STEMBERGER: And do you know
21 if that -- was that a citizen's initiative or
22 was that a joint resolution from the
23 Legislature, that particular provision?

24 CHAIRMAN BERUFF: Commissioner Gaetz.

25 COMMISSIONER GAETZ: Commissioner

1 Stemberger, to be clear, the two-year lobby ban
2 is not in the Constitution. The ethical, the
3 code of ethics is in the Constitution, but the
4 two-year lobby ban was enacted by the
5 Legislature, and it was enacted by the
6 Legislature at the time that Senator Smith was
7 Minority Leader and that other people in this
8 room served in the Legislature.

9 COMMISSIONER STEMBERGER: Thank you. I
10 didn't know, that is a clarification, I thought
11 it was already constitutional, so --

12 CHAIRMAN BERUFF: Commissioner Stemberger.

13 COMMISSIONER STEMBERGER: The next
14 question is, have you heard from any home rule
15 advocates regarding this? Are there any
16 concerns there? Have you heard from them?

17 CHAIRMAN BERUFF: Commissioner Gaetz.

18 COMMISSIONER GAETZ: Thank you,
19 Mr. Chairman. The pro-corruption lobby has
20 contacted me, but they don't wish to be
21 publically identified. In answer to your
22 question, Commissioner, I have heard -- I have
23 heard very little opposition, although I have
24 heard some individuals say to me, well, I
25 really had sort of hoped that after I served in

1 the Legislature I might be able to really make
2 some money, and frankly, I find that to be
3 morally reprehensible.

4 CHAIRMAN BERUFF: Commissioner Stemberger.

5 COMMISSIONER STEMBERGER: So there would
6 be no constitutional issue with the
7 Legislature. Technically the Legislature could
8 preempt the field and tell counties and cities
9 they could create this restriction without any
10 constitutional issues, could they not?

11 CHAIRMAN BERUFF: Commissioner Gaetz.

12 COMMISSIONER GAETZ: Thank you,
13 Mr. Chairman. If you believed that the
14 Legislature had the capacity, given all of the
15 givens in the legislative process, the answer
16 to the question is yes, but I go back to what
17 Governor Askew and many others have said, and
18 that is that it is highly unlikely that raising
19 ethical standards to this level would be able
20 to occur through the political process. It
21 would have to occur because the people of
22 Florida wanted it to occur, just as government
23 in the sunshine did.

24 COMMISSIONER STEMBERGER: Thank you, Mr.
25 Chairman.

1 CHAIRMAN BERUFF: Commissioner Sprowls is
2 recognized.

3 COMMISSIONER SPROWLS: Thank you, Mr.
4 Chairman, and thank you, Commissioner Gaetz,
5 for bringing this proposal, and to the members
6 who -- who had the two-year lobby ban several
7 years ago and as you know, Commissioner Gaetz,
8 the Florida House did a lot of what you are
9 doing here today, which is the six-year lobby
10 ban, we put that into our House rules.

11 My question is -- I am going to support it
12 and I appreciate you bringing it. My question
13 is more technical in nature. One of the issues
14 that we dealt with in the House was lawyers who
15 do, appear in front of County Commissions on as
16 Commissioner Smith said, zoning issues and
17 things like that, and I am a little outside my
18 skis here because I don't do that, but if I
19 understand correctly, Commissioner, they --
20 some of those counties, some of those
21 municipalities require that land use lawyer who
22 is representing somebody who is building a
23 warehouse, for example, to register to lobby at
24 the municipality at the county because they are
25 going to be coming in front of the Board to

1 advocate for whatever the zoning ask is.

2 My question to you, is it your desire to
3 prohibit that person from being able to do that
4 kind of work as well as be in the Legislature?

5 CHAIRMAN BERUFF: Commissioner Gaetz.

6 COMMISSIONER GAETZ: Thank you, Mr.
7 Chairman. No, Chair Sprowls, it is not my
8 intention to do that by Constitution. My
9 intention is that the Legislature would
10 establish enabling legislation were this to
11 pass, and that would be the time to have the
12 debate about whether or not that enabling
13 legislation would be preemptive or whether it
14 would provide for local flexibility.

15 CHAIRMAN BERUFF: Commissioner Sprowls,
16 are you done? Further questions?

17 Commissioner Lee is recognized.

18 COMMISSIONER LEE: Thank you, Mr. Chair.
19 Commissioner Gaetz, President Gaetz, thank you
20 not only for the proposal but for your colorful
21 presentation of it. I appreciate both.

22 I am just now kind of looking through the
23 staff analysis and the language here, and there
24 may not be an answer to this, and I may have
25 missed it if there is, but I see that it takes

1 effect in 2020, and so can -- it would help to
2 be a lawyer, but this would have retroactive
3 application to people that retired in 2015 or
4 would it start for people that retire in 2020?

5 CHAIRMAN BERUFF: Commissioner Gaetz.

6 COMMISSIONER GAETZ: Thank you,
7 Mr. Chairman. It would not have a retroactive
8 impact, Mr. President, but there is an
9 amendment that specifically sets the effective
10 date for this proposal at December 31st, 2020,
11 and then sets the date by which the Commission
12 on Ethics would be expected to do its work, but
13 there would be no retroactive application.

14 CHAIRMAN BERUFF: Commissioner Joyner is
15 recognized.

16 COMMISSIONER JOYNER: Thank you,
17 Mr. Chair. Senator Gaetz, you mentioned the
18 Grand Jury. Which of these recommendations in
19 this proposal emanate from the report of the
20 Grand Jury?

21 CHAIRMAN BERUFF: Commissioner Gaetz.

22 COMMISSIONER GAETZ: Thank you,
23 Mr. Chairman. Specifically, the revolving door
24 provision emanates from the Grand Jury and --
25 and also there is a -- a reference in the Grand

1 Jury to disproportionate gain. So I would say
2 probably as to the specific Grand Jury report
3 that you are referring to, those provisions.

4 CHAIRMAN BERUFF: Commissioner Joyner.

5 COMMISSIONER JOYNER: Disproportionate
6 gain, I recall that you said that it would be
7 defined by the Legislature, but I thought I
8 heard you later utter something that may have
9 been your description of what disproportionate
10 gain is, and I would like to know that, if so.

11 CHAIRMAN BERUFF: Commissioner Gaetz.

12 COMMISSIONER GAETZ: Thank you, Mr.
13 Chairman. Regardless of what my view of
14 disproportionate gain is, it is not included in
15 this proposal. At the strong suggestion of one
16 of our co-sponsors, Commissioner Kruppenbacher,
17 we leave that to the Commission on Ethics to
18 make that definition and to do it through the
19 usual rule promulgation process that allows for
20 public input, public hearings.

21 CHAIRMAN BERUFF: Commissioner Joyner.

22 COMMISSIONER JOYNER: Thank you. I think
23 Commissioner Rouson might have asked you
24 about -- or someone did, no, it might have been
25 Diaz, with respect to who this applies to

1 beneath the level of the Executive Director or
2 the Secretary.

3 So specifically if I am a 20-year employee
4 of DBPR, and I don't occupy one of these high
5 level positions, will I then be able to lobby
6 after having been the assistant to the Director
7 for 20 years and, of course, being a repository
8 of the knowledge of the process?

9 CHAIRMAN BERUFF: Commissioner Gaetz.

10 COMMISSIONER GAETZ: Thank you, Mr.
11 Chairman. Thank you, Commissioner Joyner, for
12 that question. The answer is that the
13 underlying proposal pertains to elected
14 officials and heads of state, executive
15 departments. It does not pertain to
16 individuals operating below in the staff level;
17 that certainly is something that a future
18 Legislature or a future citizen initiative may
19 wish to take up, if they find a case can be
20 made.

21 But I was satisfied to do more than any
22 other state has done and to leave it at that.

23 CHAIRMAN BERUFF: Commissioner Joyner.

24 COMMISSIONER JOYNER: Thank you,
25 Mr. Chair. So your proposal would restrict the

1 persons at the highest level, but the assistant
2 who is actually the number one person under the
3 Executive Director or the Secretary, who
4 basically has probably more knowledge about it
5 than the Secretary, would then be free to be
6 employed as a lobbyist by someone.

7 CHAIRMAN BERUFF: Commissioner Gaetz.

8 COMMISSIONER GAETZ: Thank you, Mr.
9 Chairman. The individuals who this would apply
10 to would be those who swore an oath to
11 preserve, protect and defend the Constitution
12 and the laws of the State of Florida, and to
13 serve as public stewards because they were
14 elected or commissioned by the Governor, but,
15 no, it does not apply to individual staff.

16 CHAIRMAN BERUFF: Commissioner Joyner.

17 COMMISSIONER JOYNER: I -- I would like to
18 know really why is it that you -- the proposal
19 extends that into six years.

20 CHAIRMAN BERUFF: Commissioner Gaetz.

21 COMMISSIONER GAETZ: Thank you,
22 Mr. Chairman. The -- as Chair Sprowls
23 indicated, the Florida House of Representatives
24 passed a six-year lobby ban. The Senate did
25 not pass it, and so I felt it was a -- an

1 indication of strong support within at least
2 one of the houses of the Legislature to go to a
3 six-year lobby ban.

4 And in my discussions with citizens in my
5 area and elsewhere in the state, they felt as
6 though a six-year lobby ban would be far enough
7 out that it would not allow for someone to
8 monetize their relationships, that a two-year
9 lobby ban wasn't enough.

10 You will remember, Senator Joyner, that
11 the two-year lobby ban was instituted while you
12 and I served in the Senate and we sought a
13 four-year ban, but we had to compromise back to
14 a two-year ban because of pressure from outside
15 interests.

16 So the six years is an arbitrary number,
17 but it is a number which derives from action by
18 the Florida House of Representatives, action
19 which I believe, Chair Sprowls, was
20 overwhelming.

21 CHAIRMAN BERUFF: Senator Joyner.

22 COMMISSIONER JOYNER: That is it.

23 CHAIRMAN BERUFF: Okay. Any more
24 questions on Proposal 39 before we ask
25 Commissioner Gaetz to explain 833998 amendment?

1 Proceed, Commissioner Gaetz.

2 COMMISSIONER GAETZ: Thank you very much,
3 Mr. Chairman. 833998 is a substitute amendment
4 which is largely technical in nature but it
5 does include issues and speaks to issues which
6 came up during the question period. The
7 amendment first clarifies --

8 CHAIRMAN BERUFF: Commissioner, we are not
9 on the substitute yet. We are on 833998. Is
10 that what you are focused on?

11 COMMISSIONER GAETZ: No, sir, 833998 has
12 been substituted for by 710062.

13 CHAIRMAN BERUFF: Okay.

14 COMMISSIONER GAETZ: With your permission,
15 I would explain the substitute.

16 CHAIRMAN BERUFF: Okay, thank you. I just
17 wanted to make clear to everybody out there.
18 So you are explaining 710062.

19 COMMISSIONER GAETZ: Yes, sir, thank you
20 very much. Thank you. This substitute
21 amendment clarifies that nothing in the
22 lobbying prohibition prevents a public official
23 or employee from carrying out the official
24 duties of his or her public office.

25 This change addresses concerned raised

1 during public testimony to ensure that public
2 officials and employees can represent their own
3 governmental entities, and any -- and
4 governmental entities outside their own, as
5 long as that representation is part of their
6 public duties.

7 So, for example, you have County
8 Commissioners who come before the Legislature
9 as part of their official duties and they
10 represent their county. They may also go to
11 the Legislature and represent the Association
12 of Counties or may represent the County and the
13 School Board and five Mayors and three cities
14 within their county on an issue that crosses
15 jurisdictional lines. And the underlying
16 proposal does affirm this right, but the
17 amendment makes it abundantly clear that that
18 is a -- that that is a preserved right.

19 And secondly, Mr. Chairman, the substitute
20 amendment directs the Commission on Ethics
21 through the statutory procedures governing
22 rule-making to define disproportionate benefit
23 and to establish requisite intent.

24 Additionally, it directs the Legislature
25 to prescribe penalties for a violation of this

1 prohibition. And then third, the substitute
2 amendment affirms that former Judges and
3 Justices are allowed to represent individuals
4 or entities before judicial tribunals or in an
5 administrative quasi-judicial proceeding in the
6 practice of law during the six years after they
7 leave office. Former Judges and Justices
8 would, of course, still be prohibited from
9 lobbying the Executive, Judicial and
10 Legislative branches for the six years after
11 leaving office.

12 And I might say, Mr. Chairman, that this
13 particular part of the technical amendment was
14 developed in consultation with Commissioner
15 Schifino, who is one of our co-sponsors.

16 And finally, Mr. Chairman, and this
17 answers a question that Senator Lee had asked.
18 This amendment changes the effective date on
19 the lobbying prohibition to December 31st,
20 2020, with no retroactivity, and moves the date
21 by which the Commission on Ethics need to do
22 its work in defining disproportionate benefit
23 and prescribing requisite intent to
24 October 1st, 2019, to give the Commission on
25 Ethics plenty of time to do their work prior to

1 the start of the 2020 regular legislative
2 session. And that is the amendment.

3 CHAIRMAN BERUFF: Thank you. We will now
4 take questions on the substitute amendment.
5 There is an amendment to substitute amendment
6 by Commissioner Lee. Would you like to speak
7 to that? 634136.

8 COMMISSIONER LEE: Thank you, Mr. Chair.
9 I now have the amendment. Commissioner Gaetz,
10 and -- Senator Gaetz, President Gaetz, has
11 brought a really, really important proposal.
12 He has had to bring this proposal to this
13 Commission, because as he said in his own
14 words, and I think Representative Commissioner
15 Sprowls said as well anecdotally, you are not
16 going to get real ethics reform, real ethics
17 reform out of the Legislature, unless it is
18 coming from a presiding officer that is willing
19 to leverage the full power of the bully pulpit
20 of either the speakership or the Senate
21 presidency to force it upon the body.

22 I have been there. I have seen how it
23 works, and along with President Gaetz, I have
24 my own experiences with ethics reform when I
25 was presiding officer in the Senate.

1 I had -- I mentioned that I had a series
2 of experiences over time that have informed me
3 about things that may be broken and need to be
4 improved in the -- in the legislative process,
5 and none of them I thought were worthy of
6 filing a proposal.

7 So I have waited to see if there was
8 something that came along that I could hitch a
9 ride on and get an opportunity for this full
10 Commission to hear my concerns and see if they
11 would be willing to consider the amendment, and
12 this is one of them.

13 I came to the Legislature, to the Senate
14 22 years ago, and when I came to the Senate,
15 local governments, local elected officials had
16 relationships with their legislators and their
17 legislative delegations, and in the true spirit
18 of representative democracy, they put together
19 through a delegation meeting, a set of
20 priorities.

21 They lobbied their delegation members,
22 elected officials, and they came to Tallahassee
23 to assist them on public policy and to help get
24 appropriations back for the various
25 jurisdictions that they represent in the

1 General Appropriations Act and elsewhere.

2 Over time, through the advent maybe of
3 term limits, maybe through the advent of
4 political committees, a combination of both and
5 maybe just the passage of time, there has been
6 an explosion of, a literal explosion of local
7 government lobbyists, of lobbyists hanging a
8 shingle and lobbying on behalf of what we refer
9 to in this amendment as political subdivisions,
10 which is defined in this amendment.

11 And in just the last ten years alone,
12 there has been a 100 percent increase in the
13 number of lobbyists lobbying just on behalf of
14 local governments. It doesn't include the
15 university system, et cetera, et cetera.

16 There is no place in the legislative
17 process where you can prove a more direct
18 benefit to your client or create a more
19 quantifiable return on investment for your
20 client than you can in the General
21 Appropriations Act or by appropriations, by
22 lobbying for money, and I would submit to you
23 that there isn't a business person in this room
24 that wouldn't pay \$100,000 to somebody for the
25 purposes of bringing them home a million dollar

1 appropriations for an important project back in
2 their community.

3 All of which is the function of the
4 appropriators and the Legislature under Article
5 III, but historically that has been done
6 through relationships between local governments
7 setting priorities, working with the
8 Appropriations Chair and directing those
9 appropriations back home.

10 Now, I don't want to get too deep in the
11 weeds unless I have to, and in response to
12 questions, but this amendment very simply would
13 prohibit a political subdivision from hiring a
14 lobbyist for the purposes of gaining an
15 appropriation for that -- that is primarily for
16 the benefit of that entity.

17 And to the -- it would not prohibit them
18 from doing something that I think is completely
19 appropriate, as Commissioner Solari and I have
20 spoken, maybe the Commission wants to have a
21 lobbyist to monitor public policy, and home
22 rule and what is happening to the Community
23 Reinvestment Act and things like that as they
24 are moving.

25 There is an evolution in the Legislature

1 where Bills evolve and things change very
2 quickly, and it is hard for local government
3 elected officials to follow policy. I had one
4 of my local Commissioners who was a former
5 Minority Leader here in the Senate call me
6 about an issue, and by the time he called me it
7 had already changed, it was no longer in the
8 Bill.

9 And so I understand why that is necessary,
10 but most of these appropriations items are
11 purely submitted as member projects by an
12 individual member of the Legislature into the
13 budget process, and then the lobbyist takes it
14 from there.

15 And if I thought those decisions were
16 being made on merit, if I thought that was a
17 meritocracy, I wouldn't be standing before you
18 today. But it has prejudiced a lot of local
19 communities who don't have someone who is one
20 of the high powered lobbyists in town. A lot
21 of local communities who don't, aren't large
22 enough, they are a smaller city or a smaller
23 county, they don't have the resources to hire
24 powerful lobbyists to represent them and they
25 simply don't get their issues funded.

1 And so what we are doing here is basically
2 allowing local governments to continue to hire
3 lobbyists for the purposes of public policy,
4 but not for the purposes of obtaining a
5 specific appropriation for -- for that -- that
6 particular entity.

7 It would apply to all political
8 subdivisions as defined in the amendment, and I
9 am happy to answer any questions, Mr. Chair.

10 CHAIRMAN BERUFF: Commissioner Smith is
11 recognized.

12 COMMISSIONER SMITH: Thank you.
13 Commissioner Lee, can you talk about why is
14 this an issue of public trust, because when I
15 think of ethics and ethics reform I think of
16 public trust, and I don't see how a county or a
17 city hiring a lobbyist to help them through the
18 process is a violation of public trust?

19 So I am trying to see how is this ethics
20 reform by prohibiting governments from hiring
21 someone for assistance.

22 CHAIRMAN BERUFF: Commissioner Lee.

23 COMMISSIONER LEE: Thank you, Mr. Chair.
24 I don't think as far as you go with your
25 question, it is. The unfortunate reality that

1 I stopped short of communicating here, is what
2 then happens when that lobbyist is hired, paid
3 that big fee.

4 At the end of the legislative process, the
5 party in power goes back and there is a
6 commission, there is a VIG, there is a
7 commitment meeting, there is a gun to that
8 lobbyist's head to donate and launder that
9 money right back to the political party.

10 I have seen it happen. And that is where
11 the public trust is violated, right there. And
12 I don't know how to stop it except to prohibit
13 people on the front end from putting weak
14 elected officials in the position on the back
15 end to destroy the process.

16 CHAIRMAN BERUFF: Commissioner Smith.

17 COMMISSIONER SMITH: Well, what do you say
18 to counties whose elected officials may not be
19 in power? So you are in a Democratic county
20 and their House member and Senator aren't in
21 the party of power, so they are not a Chairman
22 or Committee Chairman or something like that,
23 what do you say to those counties whose elected
24 officials are out of the room when decisions
25 are being made? How can they have a fair shot

1 of at least having someone with a foot in the
2 door to help get appropriations for those
3 counties?

4 CHAIRMAN BERUFF: Commissioner Lee.

5 COMMISSIONER LEE: Thank you, Mr. Chair.
6 I would -- it probably changes from
7 administration to administration, the answer to
8 that question, but I would reject the premise
9 of your question. And in the transactional
10 nature of the Legislature today, there is no
11 one prejudiced by the fact that they happen to
12 be from the Minority party, at least not in
13 this Senate. And I have watched a number of
14 Minority leaders represent their caucus very
15 well in the appropriations process.

16 The institution is a very collaborative
17 one, as you know, very collegial one. It
18 doesn't take much to upset the applecart and
19 everybody has to work together. So, you know,
20 I just don't -- I have never served in a
21 Minority party, I came in right as the Minority
22 party went to the Majority.

23 So I don't have the experience from back
24 in the early '90s, but I know in the Senate I
25 lived in, we have a number of Democrats that

1 chair committees, and if the answer to the
2 question of how local governments are going to
3 overcome the fact that they have elected
4 officials in the Minority party is to go hire a
5 lobbyist to represent them, then I am sorry it
6 has come to that. But I don't think that is an
7 improvement on the system.

8 CHAIRMAN BERUFF: Further questions on the
9 amendment?

10 Commissioner Plymale. Commissioner
11 Timmann. Sorry, Commissioner Plymale, please
12 proceed.

13 COMMISSIONER PLYMALE: Commissioner Lee,
14 just, this is just for my clarification. So
15 you are not, you are not suggesting that a
16 member of the body, the County Commissioner or
17 the School Board, they can still come and lobby
18 for an appropriation? It is just that that
19 body can't hire a lobbyist to do so, is that
20 correct?

21 CHAIRMAN BERUFF: Commissioner Lee.

22 COMMISSIONER LEE: Not only can -- not
23 only can a local elected official representing
24 that local entity lobby for appropriations as
25 their responsibility would obligate them to do

1 with their working with their legislative
2 delegation, but they also and do have staff
3 that -- many counties do have staff that are
4 internal and this would also allow you to have
5 an employee working with the County Commission
6 or the City Council or the School Board or the
7 local university as well.

8 CHAIRMAN BERUFF: Commissioner Plymale.

9 COMMISSIONER PLYMALE: Sometimes don't
10 those bodies -- I am sorry. I can't get that
11 little line.

12 CHAIRMAN BERUFF: Me, too.

13 COMMISSIONER PLYMALE: Don't some of those
14 bodies, okay, they have staff but they name
15 their staff one thing and they really just are
16 basically a lobbyist.

17 CHAIRMAN BERUFF: Commissioner Lee.

18 COMMISSIONER LEE: Commissioner, I think
19 they are pretty blatant about it. I think -- I
20 don't think there is any shame at the local
21 government level from having someone to lobby
22 and advocate on their behalf.

23 This would not prohibit that. The
24 difference, what I am trying to preclude is the
25 difference between that County employee and

1 that County Commissioner lobbying the
2 Legislature and the contract lobbyists that is
3 hired up to do it, they haven't given millions
4 of dollars of contributions to the political
5 party in power to grease the skids.

6 COMMISSIONER PLYMALE: Okay, thank you.

7 CHAIRMAN BERUFF: Commissioner Solari is
8 recognized.

9 COMMISSIONER SOLARI: Thank you,
10 Mr. Chairman. Commissioner Lee, two questions:
11 The first, I think you may have answered it.
12 The counties have a group called the Florida
13 Association of Counties.

14 Are you aware of anything that they have
15 done for say individual counties which would be
16 covered by your proposal, your amendment?

17 CHAIRMAN BERUFF: Commissioner Lee.

18 COMMISSIONER LEE: Thank you,
19 Commissioner, and thank you, Chair. I think
20 the way we drafted this, I don't think, I know
21 the way we drafted this was to keep those kinds
22 of things in mind. You have the Clerks of the
23 Court Corporation, you have the County
24 Commissions, you have City Councils, County
25 Commissions are represented by the Association

1 of Counties, City Council is represented by the
2 League of Cities, as are the Mayors.

3 And they typically lobby for -- not
4 typically, they lobby for very broad issues
5 that relate to -- that affect the public policy
6 and the funding levels for those cities and
7 counties. But they don't lobby for specific
8 line items and specific funding for a specific
9 county.

10 CHAIRMAN BERUFF: Commissioner Solari.

11 COMMISSIONER SOLARI: And the same
12 question, I think this one is a specific one,
13 but for region rather than the county. We used
14 a lobbyist, Indian River County used a lobbyist
15 to try to get a study for high speed rail in
16 the budget. We were successful to get it in
17 the budget and the success was probably
18 dependent upon the help from the lobbyist.

19 Now, that is pretty specific to Indian
20 River County or the desire for the study. It
21 was pretty much specific to Indian River and
22 maybe Indian River, St. Lucie and Martin
23 Counties. Would that be covered by this
24 amendment?

25 CHAIRMAN BERUFF: Commissioner Lee.

1 COMMISSIONER LEE: I do not believe it
2 would, and I am quite familiar with that
3 particular proposal because it really emanated
4 out of a committee that I chair in the Senate,
5 and, and as you know, the high speed rail
6 affects a lot of -- it affects a broad amount
7 from Miami north to the east coast and will
8 ultimately turn the corner and come through the
9 balance of the state.

10 There is no question in my mind that is a
11 general appropriation to the benefit of dealing
12 with public safety and high speed rail, not to
13 the benefit of a particular county. It is
14 going to DOT or a private entity to -- to do
15 the study.

16 COMMISSIONER SOLARI: Thank you,
17 Commissioner, Mr. Chairman.

18 CHAIRMAN BERUFF: Further questions on the
19 amendment? I don't see any so, I think we --
20 what is -- we go on to the next amendment,
21 which is 417664. No?

22 COMMISSIONER LEE: I will withdraw.

23 CHAIRMAN BERUFF: Do we need to -- we are
24 going to take up the amendment that
25 Commissioner Lee, the amendment to the

1 amendment on a voice vote to the substitute
2 amendment, further complicate things. So all
3 those in -- what, what, what.

4 A VOICE: Debate.

5 CHAIRMAN BERUFF: Debate, let's debate
6 that amendment.

7 Commissioner Smith.

8 COMMISSIONER SMITH: Thank you, and I
9 guess I will debate from a person who has only
10 served in the Minority in 16 years in
11 Tallahassee, a person who has looked at the
12 House budget this year and seeing that many
13 communities were shut out of the appropriations
14 process because of the way their legislator
15 voted or because of the party that their
16 legislator is in.

17 A member of the Senate for eight years who
18 although I did luckily pretty well, I had a
19 good relationship across the aisle but looked
20 at many communities who didn't receive
21 appropriations because of who their legislator
22 is or how they voted and those on both counties
23 and cities only received appropriations because
24 they were able to hire a lobbyist to help them
25 out in the appropriations process.

1 It may seem unseemly to you, but it is
2 only the fair thing to do, because right -- and
3 it has been happening for years. It may seem
4 unseemly, but for some communities the only way
5 to get their way in the appropriations process
6 is by having outside help. To depend only on
7 that elected official will shut out plenty of
8 counties, and even if it is a great legislator
9 and let's look at North Florida for example.

10 Bill Montford, great Senator, works across
11 the aisle, does great work, who is very, very
12 effective in this chamber, had about eight or
13 nine counties. There is no way for him to
14 advocate for every single county, every single
15 appropriation for every single county that he
16 was in charge of. So what does Wakulla County
17 do? What does Gadsden County do?

18 What do these other small counties do but
19 bring someone in who can help them advocate for
20 appropriations for their county? I, luckily I
21 represented Broward County, they had many
22 Senators, many reps, we all can pitch in, but
23 there are a lot of areas around here where they
24 don't have the ear and don't have the full ear
25 of even a great legislator.

1 I don't know how many counties Senator
2 Gaetz represent or how many cities, but it is
3 hard for him even, even as great of a
4 representative of those communities, it is hard
5 for him to follow every single appropriations
6 for every single city that he represented.

7 Sometimes these areas needs someone, it
8 may seem unseemly to you and you may not want
9 to know that your city hired a lobbyist, but as
10 a legislator it is hard to follow every single
11 appropriation and advocate for every single
12 appropriation for every single city, every
13 single county that you represent.

14 And if we take this away from cities and
15 counties to be able to advocate for themselves,
16 that is a very bad thing. I don't care if you
17 are in the Majority, I don't care if you are
18 Senate President, Speaker of the House, you
19 represent too many areas and there is too many
20 things going on for you to follow every single
21 appropriations for every single entity you
22 represent. And the way that these -- these
23 entities can get some help is by hiring someone
24 with some help.

25 You can paint it any unseemly light you

1 want but that is the reality of the budgetary
2 process. We cannot take away this tool and I
3 would -- I would hate to see this tool taken
4 away from the entities that need help in the
5 budgetary process.

6 SENATOR SMITH: I am here to speak in
7 favor of this amendment, but really as part of
8 this whole package, and not to -- not to be
9 disrespectful, but this whole package and this
10 amendment specifically does address the
11 unseemly.

12 It addresses the transactional nature of
13 what has happened that Senator Lee or
14 Commissioner Lee has described has occurred
15 over the last 20 years.

16 Well, this process and these contract
17 lobbyists have become more and more and more
18 transactional. But you have got two Senate
19 Presidents here who are telling you about how
20 this happens. And nothing in this Bill
21 prevents these counties from coming up here
22 themselves, their elected official, the County
23 Commissioners, the local elected folks from
24 coming up here and lobbying on their behalf.

25 What this addresses is the unseemly, is

1 the contract lobbyist and the money that has so
2 infused this system that this good package is
3 trying to address.

4 Now, I talked earlier about the three
5 different pieces that this CRC was developed to
6 address, and it was a corrupt system. And it
7 had a strangle hold on this place for 70 years
8 and this, this entity, the CRC, was created to
9 bust that up.

10 Former Senate President, Former Senate
11 President are here telling you about what is
12 going on in this deal, there is one thing we
13 can do as a Commission that will change the
14 culture, it is this package.

15 This would send a thunder cloud out to the
16 entire community and to the state. You know,
17 the three things that I talked about in the
18 beginning, consensus. We heard these folks
19 coming from all over Florida talking time and
20 time again about how -- how shut out of the
21 process they felt. And we did hear them talk
22 about their perception, about corruption, and
23 about how the process has just been turned on
24 its head by money.

25 That is what this seeks to address,

1 consensus. This thing would pull off the
2 chart, Floridians want this, they want to be
3 clean. We are supposed to be the Sunshine
4 State with sunshine records and open
5 government. Let's clean this up, the Grand
6 Jury report did say this is the kind of thing
7 that needed to happen, so consensus.

8 Number two, lots of good for lots of
9 people. This cleans it up, not just this
10 little piece, but the whole package.

11 And finally, as two Senate Presidents have
12 just told you, this is something that the
13 Legislature cannot do, despite how well
14 intentioned the leadership may be, and how much
15 they could want to happen. Unfortunately to
16 pass something like this, you have got to
17 overcome a whole lot of individual
18 self-interest that the leadership sometimes
19 just can't do.

20 We saw what happened when President Lee
21 tried to do it when he was Senate President.
22 So I just -- to the extent that this package
23 has been put together in an attempt to change
24 the culture up here, I would just urge, look,
25 there may be some little, some little counties

1 maybe who don't have the juice and who want to
2 hire a contract lobbyist, but I would submit
3 that it is necessary to look at the greater
4 good and what changes this will do for the
5 entire process.

6 I really urge, I hope -- for me, this is
7 why I volunteered to serve on this thing with
8 some of the ethics reform and this is the
9 package. I think this is the greatest good for
10 the greatest number of people, and so I hope, I
11 hope we can pass this.

12 CHAIRMAN BERUFF: Commissioner Joyner.

13 COMMISSIONER JOYNER: Thank you,
14 Mr. Chairman. Senator Smith and I bring a
15 different perspective. Everything that has
16 been said relates to the party that is in
17 power, the Majority party. You know, you say
18 that the little counties can come up here and
19 lobby.

20 Well, let me tell you, you are talking
21 about 60 days minimum. It starts way back in
22 September when committee meetings are held.
23 They can't hire enough for them to come up here
24 when they to come, but let alone can they come
25 from September through the end of session.

1 It is -- what you want to do is utopia,
2 what you want is utopia, but we can't get it at
3 one fell swoop. We can't throw the baby out
4 with the bath water because there are counties
5 who -- there are people who will vote for this,
6 and the unintended consequence of not getting
7 anything will be their fate.

8 You have got to look at both sides, and I
9 don't know whether that was taken into
10 consideration when the proposal was drafted or
11 whether we thought it through clearly, but I
12 can see unintended consequences because of
13 Minority leaders, it was a different thing.
14 When you are the underdog you get the crumbs if
15 you get anything.

16 Consequently, we have the responsibility
17 today as members of this Commission to stand
18 and advocate for the least of these, those
19 small counties, and actually there are some big
20 counties that don't necessarily fare that well
21 either.

22 The problem is somewhere, it is with the
23 money and the power at another level. You
24 know, I don't know how you clean up all of the,
25 quote, corruption or the way business is done,

1 I will term it that way, up here, but you have
2 got to understand that it ain't all equal, and
3 somebody is going to suffer. And the question
4 is, who. The greater good, you say. Well, as
5 small counties involving people, equality is
6 their goal also.

7 It should be our goal for them to be equal
8 to the others. So you can't just summarily say
9 what this proposal advocates. And it is
10 well-intentioned, but I have to think about
11 what we go through, what we have been through
12 trying to get appropriations for the people who
13 don't have the big bucks, who can't afford to
14 be up here, whose needs and desires are as
15 great as any other county seeking a unit of
16 government that is seeking funding from the
17 State Legislature, and we want a perfect
18 answer; we can't get it.

19 The question is, in one fell swoop can we
20 come up with something that addresses your
21 interest, Senator Smith's interest, mine,
22 Senator Gaetz. This is a lot to do in one fell
23 swoop, and Senator Lee, whose legacy will
24 always be ethics and lobbying reform.

25 I know that everyone here has noble

1 intentions, but you have to consider
2 everybody's perspective. You have to
3 understand that all of the people of the state
4 of Florida don't have that equal shot at it
5 because even within Senator Gaetz's district
6 and Senator Montford's district, if you got
7 nine counties, you have competition within
8 those nine counties, because all of them have
9 needs.

10 So sometimes they are competing against
11 each other, and you say, oh, I got five
12 counties and each of them needs \$200,000 and I
13 am only getting 500, you know, do I divvy up
14 100 for each, is that what I ask for? But no,
15 if there is a greater need in Gadsden than in
16 Leon, and so there is a lot to this.

17 It is not as simple as it seems that we
18 can wipe it out, it is not. It is like Senator
19 Smith said, it might seem unseemly and
20 whatever, but it is real. It is what goes on
21 up here. I don't think that this is going to
22 cure it. I know that if it does somebody is
23 going to be left in the dust with nothing.

24 So just think about it as you decide how
25 you are going to vote on this proposal, but

1 this amendment will wreak havoc on some
2 counties and cities in this state.

3 CHAIRMAN BERUFF: Commissioner Diaz is
4 recognized.

5 COMMISSIONER DIAZ: Thank you, Mr.
6 Chairman. And when I was in the Florida House
7 of Representatives, we actually talked about
8 this sort of proposal internally. I was one of
9 the advocates that always fought against it,
10 because I served and chaired the committees
11 where a lot of these local lobbyists grind
12 their teeth, and oftentimes what I was most
13 surprised at was that local government lobbyist
14 was actually advocating for the people back
15 home and if they weren't hired, the same people
16 that the Legislators are voted to Tallahassee
17 to go out and carry good laws would be
18 blindsided by huge private interests that want
19 to pull one over the eyes of the local
20 governments.

21 There is one lobbyist in particular, I
22 won't mention his name but he represented a lot
23 of local governments, and I found him to be a
24 brilliant man, and I can't tell you how many
25 times he was able to zealously advocate on

1 behalf of his clients which were local
2 governments, that ultimately inured to the
3 benefits of the constituents.

4 And if local governments aren't allowed to
5 compete pound for pound with the private
6 interests that are constantly trying to do
7 things like preempt them or fix fees for
8 certain things, and the utility context which
9 is one that I dealt with a lot, there is a lot
10 of tug of war between local governments and
11 private interests. I think the ones that
12 actually stand to lose are the constituents,
13 and I have lived it.

14 I have been lobbied by the best lobbyists
15 in town and I have been lobbied by some of the
16 folks that lobby the local governments, and it
17 would create an inequity in the system, and if
18 that was something that we really wanted to
19 consider, I think this is something that could
20 actually past Legislature and the Legislature
21 could adjust it from time to time based on the
22 feedback that they get, based on this
23 prohibition.

24 But what we are doing here, is we put this
25 into the Constitution there is going to be

1 reverberations for the next 20 years, and the
2 Legislature won't be able to fix the mess that
3 we created.

4 So again having been there, having lived
5 this, having had to fight for the little guy,
6 you could ask any local government. I was many
7 times the champion of counties and cities, they
8 would be left by the wayside if this were to
9 pass in many ways.

10 CHAIRMAN BERUFF: Further debate? Is
11 there further debate on 634136?

12 Commissioner Gaetz, do you consider this a
13 friendly amendment?

14 COMMISSIONER GAETZ: Thank you,
15 Mr. Chairman. First of all, let me say that my
16 primary interest and concern is with the
17 underlying proposal, which we spent, like
18 yourself, a great deal of time on and I hope
19 that passes.

20 I am in sympathy with what President Lee
21 wants to do. He was the first modern presiding
22 officer in the history of Florida to take the
23 kind of stand that he took about the
24 relationship with money and politics, and I
25 respect him. I am going to vote for his

1 amendment, and I don't think I am betraying a
2 confidence when I say that he and I have
3 discussed the fact that this opens some
4 additional doors, and I hope that those who
5 will support his amendment will do so for the
6 reasons that he has articulated.

7 I hope that if the amendment passes that
8 it will not detract from the underlying
9 proposition and that we are able to get the
10 underlying proposition passed, but I intend to
11 vote for the Lee Amendment.

12 CHAIRMAN BERUFF: Commissioner Lee, if you
13 would like to close on your amendment.

14 COMMISSIONER LEE: Thank you, Mr. Chair,
15 and I appreciate your comments, President
16 Gaetz, and all of the comments that have been
17 made here today.

18 Reference has been made to Senator
19 Montford and the counties that he represents,
20 and the truth is that these small counties
21 don't have the money to hire a lobbyist. They
22 don't have it, so they don't hire them, and
23 that is why you have 36 counties in this state
24 that have less jobs. One of the reasons why
25 you have 36 counties in the state that have

1 less jobs today than when they entered the
2 recession, because the money goes pouring in to
3 the counties that have the large populations,
4 the large budgets, that hire the big name
5 lobbyists.

6 A lot of focus has been, you know, placed
7 on local governments, but you have state
8 universities that are pigging out in this
9 budget of ours. And, yes, there are winners
10 and losers and people sometimes are not in
11 favor, but the solution is not to allow someone
12 to fix their problem by going off and hiring
13 somebody who is going to take a percentage of
14 the profits derived from their firm and launder
15 it back through a political process, a party,
16 so that they can turn around and be king makers
17 again.

18 That is what we are allowing to happen by
19 criticizing or pointing out or using these
20 examples of the people that are unprivileged,
21 is we are saying it is okay to have this flawed
22 process, to level the playing field. Well,
23 let's figure out another way to do it, because
24 this isn't the way. And we are not going to
25 create a perfect system here.

1 I, you know, I realize I was only going to
2 make marginal changes in state government when
3 I came here. I just knew it wasn't going to
4 change me. That is all I could guarantee. And
5 I have watched it evolve for a long time. It
6 took me a long time to get to this point, a
7 long time. And I will tell you where it boiled
8 over with me, was this past session.

9 The major county I represent has had a
10 lobbyist for 25 years representing them. I got
11 wind through someone in the media that there
12 was a new lobbyist that had been hired, right
13 as we went into conference on the budget to
14 negotiate the budget differences. I called the
15 guy and I said, hey, man, what happened, did
16 you get fired or -- no, no, no, no.

17 A lot of appropriations for my county was
18 tied up in one subcommittee, one subcommittee
19 of the Senate, and it was the strategy
20 recommended that they hire a specific lobbyist
21 because they had donated over a million dollars
22 to the Chairman.

23 And I hate to be on this Senate floor
24 airing the dirty laundry the way this process
25 works, I really do, but it is the truth and we

1 have a chance to fix it here.

2 We have a chance to stop this laundromat,
3 and I would ask you to stand with me, if this
4 goes to Style and Drafting, if there is
5 something on it that is causing trouble for
6 President Gaetz's proposal, he knows, as I told
7 Commissioner Nunez, I have no desire to bring
8 down somebody's otherwise good idea with an
9 amendment.

10 And because of that, Mr. Chair, I realize
11 we are going to take a voice vote, but I would
12 ask the members who are standing with me on
13 this to raise three hands, so that we can go to
14 the Board on this amendment and see where this
15 commission stands on ethics, and I would
16 suggest the absence of a quorum.

17 CHAIRMAN BERUFF: Okay, so now we are
18 going to take a voice vote on 634. We need a
19 quorum call.

20 THE SECRETARY: Quorum call, quorum call.
21 All Commissioners indicate your presence, all
22 Commissioners indicate your presence. Quorum
23 call, quorum call, all Commissioners indicate
24 your presence. A quorum present,
25 Mr. President, Mr. Chair.

1 CHAIRMAN BERUFF: Got a promotion,
2 demotion, I don't know. Okay, so with that we
3 will take a voice vote on 634136. All those in
4 favor signify by saying yea.

5 (Chorus of yea's).

6 CHAIRMAN BERUFF: All those opposed,
7 signify by saying nay.

8 (Chorus of nay's).

9 CHAIRMAN BERUFF: Overruled, okay. So we
10 are going to have to unlock the board. Lock
11 the board, please. Has everybody voted? Yes.

12 THE SECRETARY: Seventeen yea's, 15 nay's,
13 Mr. Chairman.

14 CHAIRMAN BERUFF: The amendment moves
15 forward.

16 Now we have to go to 417664, no, I got to
17 go down to the next one. We need to adopt the
18 substitute amendment.

19 We can do that by voice vote as amended
20 and debate on the substitute amendment. Boy,
21 you guys make things difficult up here. So we
22 have ended debate on the substitute amendment.

23 Do you want to close or you are good? All
24 those in favor on 710062 please signify by
25 saying yea.

1 (Chorus of yea's).

2 CHAIRMAN BERUFF: All those opposed,
3 signify by saying nay.

4 (Chorus of nay's)

5 CHAIRMAN BERUFF: The yea's have it. That
6 moves forward. Now we go down to 417664,
7 Commissioner Lee, would you like to go ahead
8 and open with that?

9 COMMISSIONER LEE: I think we are going to
10 withdraw the balance of these two amendments,
11 is that correct?

12 CHAIRMAN BERUFF: I certainly agree with
13 that. So we are withdrawing 417664 and 708782,
14 is that correct, Commissioner Lee?

15 COMMISSIONER LEE: Yes.

16 CHAIRMAN BERUFF: Okay, now we will go
17 back, I think and debate 39 as amended.
18 Commissioner Kruppenbacher.

19 COMMISSIONER KRUPPENBACHER: Mr. Chairman,
20 as a -- and members of the Commission, as a
21 co-sponsor, while I would like to thank
22 Commissioner Gaetz, I would implore all of you
23 to work with him. Until you work with him you
24 don't realize what a personal friend he was of
25 Thomas Jefferson's.

1 But I was on the Florida Commission on
2 Ethics, and here is what I learned sitting on
3 that Commission.

4 Everybody talked about wanting ethics
5 until you asked the Legislature to actually do
6 something, and they never adopted anything you
7 sent over to them. And I think this is a
8 chance for us. We talked earlier about
9 defining in our Constitution the values of what
10 Florida really is. And this is an opportunity
11 to define Florida as a state that has a value
12 of integrity, and President, Senator Gaetz, my
13 good friend, thank you for working on this with
14 me.

15 I think it truly has an opportunity to
16 tell the public of Florida this body looked out
17 to do what was right for them, and to give them
18 the chance to define the value of integrity for
19 state and local government. Thank you.

20 CHAIRMAN BERUFF: Anyone else like to
21 debate on the amended Proposal? Commissioner
22 Smith?

23 COMMISSIONER SMITH: Thank you, Mr. Chair,
24 and I find myself in the position that I found
25 myself in many years here. When you support an

1 underlying position you support an underlying
2 Bill or proposal, and Commissioner Gaetz, I do
3 support the underlying -- what you are trying
4 to do, but the amendment that was just adopted,
5 I think it goes too far for -- through my years
6 of experience, I think we just made your good
7 Bill, your Bill proposal a bad proposal, so we
8 will see what happens to it.

9 I can't vote for it today. I support
10 90 percent of it now and we will see what
11 happens if it comes back, when it comes back
12 from Style and Drafting, but 90 percent, I just
13 want to say on the record I support and I
14 support everything you are trying to do in it,
15 but because now I think we just handcuffed a
16 lot of areas of the state that does not have
17 the ability to influence the appropriations
18 process. It is not a level playing field. I
19 won't be able to support this proposal.

20 CHAIRMAN BERUFF: Commissioner Schifino,
21 you are recognized.

22 COMMISSIONER SCHIFINO: Thank you, Chair
23 Beruff. Very briefly, I listened attentively
24 to Senator Lee's amendment and the entire
25 debate. At the end of that debate, I was

1 compelled to vote no on that amendment.

2 But I do want to state that I
3 wholeheartedly support Commissioner Gaetz's
4 Proposal 39, and I do not believe the
5 amendment, while I disagreed with it, the
6 amendment will not keep me from voting yes on
7 this proposal for many of the reasons that
8 Commissioner Newsome articulated.

9 I traveled the state. We all did
10 together. One of the things I heard over and
11 over again, if there was one proposal that I
12 heard about that people were really interested
13 in, it was what we were doing with Proposal 39,
14 ethics. And for those reasons even though I
15 will repeat I disagree with that amendment, I
16 do think at the end of the day this is a very
17 positive step we could be taking as a
18 Commission. It will send a wonderful message
19 to the citizens. Thank you.

20 CHAIRMAN BERUFF: Commissioner Rouson.

21 COMMISSIONER ROUSON: Thank you very much,
22 Mr. Chairman. I have, in my nine years in the
23 Legislature, never filed a Bill I didn't like,
24 nor have I filed a proposal I didn't like. And
25 I happen to have liked Proposal 19.

1 That would have set a standard, a high
2 standard, a high bar of six years for
3 statewide-elected secretaries and legislators.
4 And President Gaetz and I had robust discussion
5 about 19 versus 39. In fact, at one point you
6 amended Proposal 19 to include the provisions
7 of 39, but you withdrew it.

8 I was already on the fence, not about
9 maintaining the highest ethical standard of
10 Florida setting the bar, but about whether 39
11 drills down too far to Judges, to County
12 Commissions, to City Councils, to Mayors, to
13 School Boards. I think those are things that
14 local government can handle through ordinances
15 and general law.

16 But for me, the Lee Amendment -- and I am
17 persuaded by the argument, and I have heard
18 Senator Montford talk about the 11 counties
19 that he represents, their economic condition
20 and status and their ability to get elbow room
21 in the appropriations room when it comes to
22 matters that are important to rural and small
23 counties. So I can't support this today
24 because of those reasons. Thank you.

25 CHAIRMAN BERUFF: Commissioner Nunez is

1 recognized.

2 COMMISSIONER NUNEZ: Thank you,
3 Mr. Chairman. I would just like to express my
4 support for this good proposal. I can think of
5 no individuals that have done more to further
6 ethics reform than Commissioner Lee and all of
7 the good work he did when he was the presiding
8 officer as well as the sponsor, Commissioner
9 Gaetz, when he was the presiding officer.

10 As a matter of fact, a few years ago when
11 I brought an issue to him related to some
12 ethics concerns I had with my Expressway
13 Authority, he immediately took that up and he
14 immediately addressed it as part of his ethics
15 proposal again when he was presiding officer.

16 So I think this proposal is a testament to
17 their hard work, a testament to what they
18 envision Florida being about, and that is
19 ethics in government, and I stand in support of
20 this good proposal.

21 CHAIRMAN BERUFF: Commissioner Solari.

22 COMMISSIONER SOLARI: Thank you, Mr.
23 Chairman. I am happy to say today that I will
24 never be a paid lobbyist, but it seems to me
25 that in our society we have spent more and more

1 time trying to micro-manage behavior with no
2 positive results. Republic needs virtue,
3 adherence to government-mandated statutes is
4 not virtue. Thank you.

5 CHAIRMAN BERUFF: Commissioner Joyner is
6 recognized.

7 COMMISSIONER JOYNER: Thank you, Mr.
8 Chairman. I think I really said it all
9 earlier, Commissioner Smith and I bring a
10 different perspective from the Minority side of
11 the aisle. And for those communities that we
12 feel will not benefit from the addition of the
13 amendment to the proposal which is notable and
14 significant.

15 I took exception with it in committee, and
16 the part that I did not like was taken out at
17 that time, but the bottom line is, does this
18 really now belong in the Constitution?

19 You know, we had a gift ban years ago and
20 it brought a lot of unintended consequences,
21 and just thankful that that was all in statute.
22 You know, if the lawmakers we got can't do it
23 right, maybe it is not the Constitution that
24 needs changing; it is the lawmakers.

25 What we really need to be trying to figure

1 out, is how can we get people up here who will
2 do the right thing. But the system is
3 entrenched and the question is, in trying to
4 make it right is this the right thing to do,
5 the right way to do it.

6 We will see. We will see. I -- I detest
7 the six-year ban, I just think that it is
8 excessive. I think it is a denial of folks
9 having the right to pursue employment after
10 having gained expertise for a number of years.
11 I know that people who have not been in the
12 system, there are things about it that they
13 just will never understand, and those of us who
14 have been here, the 16 years I have been here,
15 the 16 years that I spent here, I was always on
16 the Minority.

17 So it was triple difficult in some
18 instances to get some of what I wanted, and I
19 never ever felt that the appropriations that I
20 got were sufficient, equal to those of the
21 others.

22 But you learn how to let do with what you
23 get and it only leads you to aspire to do
24 better the next time, develop relationships,
25 because that is basically what it is all about,

1 that, and, of course, the influence that the
2 almighty dollar has, which I understand is the
3 rationale, is the underlying reason why we are
4 trying to make this change.

5 But it is the baby and the bath water that
6 bothers me because in the end the baby is going
7 to be affected. This is -- this has been good
8 discussion, and hopefully the people who -- who
9 are at home who are listening will have
10 somewhat of a better understanding of the
11 different perspectives that you get from a
12 group like this composed of all of these noble
13 citizens of the state of Florida from the
14 different occupations, and those of us who have
15 been part of the legislative process and those
16 who are here and still a part of the process.

17 I am sure that there will be many Bills
18 filed next year emanating from the discussion
19 that we are having on this floor. I have
20 already told somebody this is one that you can
21 take on, and some others, but who am I to judge
22 whether what we are doing is right. I can only
23 give my opinion and I think that the amendment
24 took it just a little too far.

25 CHAIRMAN BERUFF: Further debate on 39 as

1 amended? Commissioner Coxe is recognized.

2 COMMISSIONER COXE: Thank you, Mr. Chair.

3 I chaired the Elections Committee, participated
4 in the debate that was extensive in support of
5 Commissioner Gaetz all of the way along.

6 By the same token, Commissioner Smith's
7 point about this amendment gives me serious
8 heartburn about supporting as it is. I am
9 going to, and maybe hope, maybe after Style and
10 Drafting it comes back to us again, maybe
11 somehow it can be revisited, but that does give
12 me heartburn.

13 What I don't understand is why I am
14 hearing all afternoon why this branch of
15 government is not capable of dealing with these
16 issues. I would think it is their job, it is
17 not our job. Why is it the Legislature is
18 incapable apparently of dealing with this is
19 beyond me.

20 CHAIRMAN BERUFF: Commissioner Lee is
21 recognized.

22 COMMISSIONER LEE: Thank you, Mr. Chair,
23 and I don't really need to say anything about
24 this proposal, except that I don't think there
25 has ever been an ethics proposal come through

1 the Florida Legislature that I haven't tried to
2 help lift up in some form or fashion. I just
3 don't think you can do enough to enhance the
4 public trust.

5 I think we have voter turnout, we have
6 attitudes toward elected officials that have
7 never been lower, and there is a reason for
8 that, and it is sad, and, you know, I don't
9 expect to fix it with this proposal any more
10 than the others that have been passed from time
11 to time, but we can't stop trying.

12 I mean, we have a whole section of
13 statutes that are criminal codes, because
14 somebody has to regulate morality; somebody has
15 to, you know, we have law enforcement on our
16 roads because people are going to speed, people
17 are going to break rules.

18 And the temptation in this process has
19 become way too great. I have seen a
20 deterioration in the values and the reasons for
21 which people come to this town over time, it
22 used to be people came to Tallahassee because
23 they had accomplished something in their
24 community and they wanted to go give back in
25 the self-actualization stage of their life; now

1 a lot of people come to Tallahassee because
2 they couldn't get a job, but they could sure
3 find one once they are a legislator.

4 And President Gaetz is trying to do, you
5 know, his small part here to lift this, to
6 close some loopholes that have led to people
7 wanting to come into the Legislature for the
8 wrong reasons. And I support him and I would
9 just ask you, look, I have been around this
10 place a long time.

11 Don't vote against President Gaetz's
12 proposal today because you don't support my
13 amendment. This is going to go to Style and
14 Drafting, we are going to have a chance to work
15 on that amendment. It may come back without it
16 in there. I have absolutely no intention,
17 none, of torpedoing somebody else's idea that
18 they have worked on in collaboration with other
19 members to get to this floor so that I could
20 put something on it that weighted it down.

21 That is just wrong. So, please, you know,
22 as frustrated as I am about the way this system
23 works, as much as I don't understand how
24 lobbyists who have clients that are local
25 governments can sit here in this chamber and

1 vote on a proposal that would cost their firm
2 money, I am not going to shove this down
3 anybody's throat. That is not the right way to
4 roll.

5 And I will work with President Gaetz and I
6 will work with Brecht and Commissioner Heuchan,
7 and others on this proposal, and if it is not
8 ready for prime time, if it is not something
9 that this body supports, we will make sure it
10 doesn't come back to you in a form that makes
11 it difficult for you to vote on it, otherwise a
12 good underlying proposal.

13 Thank you, Mr. Chairman.

14 CHAIRMAN BERUFF: Commissioner Gainey is
15 recognized.

16 COMMISSIONER GAINNEY: Just a quick comment
17 that occurred to me a few minutes ago.
18 Occasionally because of whatever reason it
19 occurs, individuals get appointed to a
20 department head position for a month, with no
21 intent to be appointed permanently. Perhaps as
22 we address this in Style and Drafting we may
23 want to keep that in mind. You hate to have
24 someone with a two-week or two-month
25 appointment be banned for six years.

1 CHAIRMAN BERUFF: Further debate? I don't
2 see any hands for further debate on 39 as
3 amended.

4 Would you like to close, Commissioner
5 Gaetz?

6 COMMISSIONER GAETZ: Thank you very much,
7 Mr. Chairman, and thanks to all of you who
8 participated in this debate. I appreciate the
9 Chairman giving so much time to this subject.
10 It is not an easy subject but it is an
11 important subject, and regardless of what side
12 of the debate you are on, I appreciate the
13 thoughtfulness with which you have approached
14 this subject. Let me make just a couple of
15 comments.

16 There are those who may think because they
17 have said so, that this proposal goes too far,
18 drills down too far, and that is true. It does
19 drill down, it drills down into our state
20 agencies, where contracts that are worth
21 billions of dollars are let.

22 It drills down to local governments where
23 decisions are made, both in terms of taxing and
24 spending that involve billions and billions of
25 dollars and policy decisions that affect all of

1 our citizens in profound ways.

2 So indeed, this proposal does include not
3 just the highest levels of State government,
4 but it drills down to the first job that I had
5 in public service, and that was serving on my
6 local School Board.

7 That is because I believe that as we
8 traveled around the state, as we listened to
9 public testimony and as we talked during the
10 breaks and before and afterwards and in our own
11 communities with citizens we heard one
12 incontestable refrain, and that was that all of
13 us involved in government at whatever level,
14 need to be more accountable and need to be more
15 ethical and need to be more transparent.

16 So this proposal does make clear that a
17 public official cannot at the same time be a
18 paid lobbyist and also be in public office.

19 The proposal does close the revolving door
20 between public office and private lobbying. It
21 closes it in a way that Senator Rouson
22 originally championed through his Proposal 19,
23 in which the House of Representatives passed by
24 an overwhelming majority.

25 It prohibits public officials from

1 misusing the public trust to obtain
2 disproportionate benefits for themselves and
3 their families and their business interests at
4 all levels. And so this proposal does, indeed,
5 drill down.

6 Governor Bush told me one time, I guess I
7 got a lot of advice from former Governors, they
8 probably thought I needed it. Governor Bush
9 said to me accountability is great, everybody
10 is for it until it knocks on their door.
11 Accountability is knocking on our door today
12 with this proposal.

13 There are many things about the proposal
14 that I am sure as we go to Style and Drafting
15 can be shined or deburred or improved upon
16 before it comes back for final debate and
17 dispositive vote to place this matter before
18 the people of Florida.

19 But I have confidence in Chair Heuchan and
20 the members of the Style and Drafting
21 Committee, that if there are deburring issues,
22 that they can take care of them and that they
23 will bring us back a product even better and
24 more sensible and clearer than the one that
25 exists today.

1 I hope you will vote for higher ethical
2 standards for all of our public officials. I
3 agree with President Lee that there is no
4 single act that we can take that will suddenly
5 restore people's faith in government. If you
6 go back and because I knew Thomas Jefferson so
7 well, I knew John Adams too. John was a little
8 more irascible, and if you look at the -- if
9 you look at the campaign materials that they
10 passed back and forth against each other, those
11 two people who said they were friends, the
12 names they called each other, the public
13 officials have always held each other and then
14 held in fairly low esteem.

15 I think that is one of the strengths of
16 this country, is that we don't believe that
17 those people who hold the mantel of government
18 are somehow deified or somehow appointed and
19 anointed in some way and can do no wrong.

20 We look for the reasons why they could do
21 better and should do better. This proposal
22 lifts the standards of private conduct in
23 public office higher than any other state in
24 the Union. Accountability is knocking, and
25 hopefully you vote yes.

1 CHAIRMAN BERUFF: Secretary, please unlock
2 the board. Commissioners, has everybody voted?
3 Please lock the board and announce the results.

4 THE SECRETARY: Twenty-eight yea's, five
5 nay's, Mr. Chair.

6 CHAIRMAN BERUFF: The motion is adopted as
7 amended and the proposal is committed to the
8 Style and Drafting Committee.

9 Commissioner Cerio, you are recognized for
10 a motion.

11 COMMISSIONER CERIO: Thank you, Mr. Chair.
12 I would move that the rules be waived and the
13 Commission extend its meeting until 6:00
14 tonight as a point of information, because
15 several people have asked, the Florida Channel
16 can cover us until 6:00 tonight. That is my
17 motion.

18 CHAIRMAN BERUFF: All those in favor, yea?
19 All those against, nay? Motion carries, thank
20 you. We will keep going.

21 We are now going to take up Proposal 103.

22 Commissioner Nunez raised a point of order
23 that the eight amendments offered by
24 Commissioner Lee were not germane to Proposal
25 103. Commissioner Cerio, for a recommendation

1 of point of order.

2 COMMISSIONER CERIO: Thank you, Mr.
3 Chairman. Members, for -- a germanity issue
4 was raised, and for an amendment to proceed it
5 must be germane and our own Rule 7.4 states
6 that no proposition on a subject different from
7 that under consideration shall be admitted
8 under color of amendment.

9 So in order for these amendments to be
10 deemed germane they must be of the same subject
11 or subject matter. We also have -- that is in
12 our Rule 7.4.

13 We also have additional guidance provided
14 by Mason's Manual of Legislative Procedure
15 which are bylaws recognized as being helpful
16 guidance and authoritative in some instances
17 and according to Mason, Section 402, to
18 determine whether an amendment is germane, the
19 question to be answered is whether the
20 amendment is relevant, appropriate and in a
21 natural and logical sequence to the subject
22 matter of the original proposal.

23 And Mr. Chairman, Proposal 103 addresses
24 Article III, Section 3, and specifically
25 addresses the sessions of the Legislature, and

1 within Representative Nunez's proposal, which
2 she is specifically trying to do, is move the
3 legislative session from March or another time
4 as set by the Legislature to specifically in
5 the Constitution requiring session to be in
6 January.

7 The proposals or the amendments that
8 Senator Lee has filed, I believe that six of
9 them are not germane. My recommendation to you
10 is that six are not germane and two are, and
11 depending on your preference, Mr. Chair, I can
12 talk about the ones that are or I can go
13 through each one of them.

14 CHAIRMAN BERUFF: The shorter the better.

15 COMMISSIONER CERIO: All right, so the
16 first six in order. They are not -- they are a
17 different subject matter. They are the same
18 article, they are in a different section and
19 they do not pertain to the sessions of the
20 Legislature.

21 Senator Lee's last two amendments do
22 pertain to the sessions of the Legislature.
23 Amendment 212864, Article -- sorry, that is
24 incorrect. Yes. That is correct, Article
25 212864, Article III, Section 3, addresses

1 extensions of the legislative session, which is
2 the same subject matter.

3 On Amendment 857002, Article III, Section
4 3, pertains to adjournment sine die by
5 concurrent resolution of both chambers, and
6 that also pertains to legislative session.

7 That is my recommendation, Mr. Chairman.

8 CHAIRMAN BERUFF: So ordered. We will
9 take up Amendment 212864.

10 Commissioner Lee, would you like to
11 address that amendment?

12 COMMISSIONER LEE: Yes, thank you,
13 Mr. Chair. I am going to withdraw this
14 amendment and then I am going to withdraw the
15 final amendment as well. Representative
16 Commissioner Nunez sits on the Style and
17 Drafting. These are germane and she can deal
18 with them there as she sees fit and we won't
19 need to take the time on the floor here to deal
20 with these two amendments.

21 Thank you.

22 CHAIRMAN BERUFF: Okay, we go back to the
23 beginning, right? Commissioner Nunez,
24 Commissioner Joyner is recognized for
25 questions.

1 COMMISSIONER JOYNER: Mr. Chairman, I
2 would like the bar code for the two amendments
3 that Senator Lee withdrew.

4 CHAIRMAN BERUFF: Commissioner Lee.

5 COMMISSIONER LEE: Thank you, Mr. Chair.
6 They should be bar code 212864 and bar code
7 857002.

8 CHAIRMAN BERUFF: Thank you, Commissioner.
9 Questions on 103, Proposal 103. No questions?
10 We will move on to debate of 103. Debate
11 on Proposal 103.

12 Seeing no debate, Commissioner Nunez,
13 would you like to close on Proposal 103?

14 COMMISSIONER NUNEZ: Thank you, Mr.
15 Chairman, Commissioners. Simply put, if
16 Proposal 103 passes it gives consistency to the
17 legislative session for even-numbered years by
18 permanently setting the date for the
19 Legislature to convene as a second Tuesday
20 after the first Monday in January. And I ask
21 for your favorable support.

22 CHAIRMAN BERUFF: Secretary, will you
23 unlock the board? Commissioners, please vote.
24 Commissioners, have you all voted? Please
25 close the board and give us the tally.

1 THE SECRETARY: Thirty-two yea's, one nay,
2 Mr. Chair.

3 CHAIRMAN BERUFF: Okay. That is fine. We
4 will now take up Proposal Number 97. Excuse
5 me, 103 was adopted and moves to Style and
6 Drafting Committee. Thank you.

7 Shall we -- the Chair asks everyone to
8 take a five-minute recess. We will reconvene
9 in five minutes, at 5:05.

10 Thank you.

11 (Brief recess taken.)

12 CHAIRMAN BERUFF: All right, we are
13 reconvening. We recognize Commissioner Keiser,
14 Proposal 97. Would you like to introduce your
15 proposal, Commissioner?

16 COMMISSIONER KEISER: Thank you,
17 Mr. Chair, and members of the Commission for
18 the opportunity to present Proposal 97, which
19 deals with the voter threshold for passage into
20 the Florida Constitution.

21 Members, we have had many discussions
22 today and throughout this process about what
23 truly belongs in the Constitution. And when I
24 was reading the Constitution as so many of us
25 have, I looked at it and I saw an

1 inconsistency. And the voters' voices at the
2 time said, folks, if you are going to tax me
3 there should be a two-thirds majority and they
4 should represent all the voters voting in a
5 particular election.

6 What that said to me was that it matters
7 that -- it really matters to them ultimately
8 whether -- how they are taxed and what form
9 they are taxed. And so that standard, again,
10 is -- represents those in favor or those
11 against, over all of those voters voting in
12 that particular election.

13 Currently what we have in our Constitution
14 is if there is some proposal that voters were
15 looking at as potentially in the Florida
16 Constitution, we have a different standard.
17 What we have is 60 percent of those voting for
18 or against, over those voting only on the
19 measure, voting only on the measure.

20 I look at this as a real opportunity for
21 all of us and I really look forward to hearing
22 from each and every one of you about what your
23 thoughts are, because I understand that we have
24 an incredible opportunity.

25 We have the opportunity to look forward 20

1 years, and I know that we are wrestling with
2 that. So I brought this proposal forward
3 because I believe that if you look at our
4 Florida Constitution it has been amended 110
5 times in 60 years, 110 times in 60 years.

6 The U.S. Constitution inversely has only
7 been amended 27 times in 230 years. And
8 ultimately when more voters weigh in on a
9 decision, and, of course, the Florida
10 Constitution impacts all our lives, that to me
11 is one of the most important ways that voters
12 can have their voices be heard and they can
13 also stand either in unison or against special
14 interests who are well-financed that very often
15 have a tremendous impact on the outcome of that
16 particular measure.

17 Now, I want you to know that if you look
18 at my proposal you will see that I did consider
19 an amendment, and I probably should have said
20 this in the beginning, but I am withdrawing the
21 amendment that you will see in your backup
22 there that would have just pushed the threshold
23 to two-thirds. It would have stayed on the
24 measure, but it raised the level needed for
25 passage. And it was just the numerator from 60

1 to two-thirds. I am withdrawing that proposal,
2 please, that amendment. And so I just want to
3 clear that from the beginning.

4 What I am asking you to consider today,
5 Commissioners, is an initiative that would say
6 that going forward that to make sure, to
7 encourage more of our voters to weigh in on
8 these important decisions, whether it is water
9 or land use, or the courts or things that we
10 know will protect us, more voters' voices will
11 be heard under this particular proposal.

12 I have been asked very often, will
13 anything pass? Well, certainly it will, and we
14 have done the research to demonstrate it will,
15 and you know when things pass, when the voters
16 make their voices heard by voting on a
17 particular amendment.

18 So, for example, in 2016 with medical
19 marijuana, under -- under this proposal,
20 68 percent of the voters would have passed this
21 into the Constitution, and on the Florida Water
22 and Land Conservation Initiative, also known as
23 Amendment 1, this particular amendment garnered
24 about 75 percent, 74.9, and under this proposal
25 it still would have passed with 70 percent.

1 We have spoken a lot about what belongs in
2 the Florida Constitution. We have spoken a lot
3 about making voices heard, and the importance.
4 I have heard a fellow Commissioner talking
5 about working hard together to ensure that we
6 do the most good for many.

7 Isn't it better if more of our citizens
8 are weighing in on these decisions?
9 Commissioners, I hope, too, that it will
10 encourage a more informed and more active
11 electorate, and ultimately, if we adopt this,
12 it will provide more consistency in the Florida
13 Constitution. I would be happy to answer any
14 questions you might have at this time.

15 CHAIRMAN BERUFF: Commissioner, just for
16 clarification, you are withdrawing 534474?

17 COMMISSIONER KEISER: Yes, Mr. Chairman.

18 CHAIRMAN BERUFF: Which means we don't
19 have anything to do with 365360 then, correct?

20 COMMISSIONER KEISER: Yes.

21 CHAIRMAN BERUFF: Right, that is gone. So
22 now Commissioner Carlton would like to speak to
23 Amendment 435946. We will go to questions
24 first.

25 Commissioner Keiser, do we have questions

1 for Commissioner Keiser's Proposal P-97 as it
2 currently stands?

3 Commissioner Cerio.

4 COMMISSIONER CERIO: There is two
5 questions: So hypothetically, just trying to
6 round numbers, say there are a million total
7 votes cast in an election, and because not
8 everybody votes for every ballot or any
9 category within an election, 900,000 -- should
10 your proposal pass, 900,000 would vote for a
11 particular amendment to the Constitution.

12 Nevertheless, it would still require
13 600,000 out of those 900,000 votes in order to
14 pass, correct, assuming a million total votes
15 are cast, is that correct?

16 COMMISSIONER KEISER: So 60 plus one
17 remains the same and the denominator now
18 reflects, becomes the 900 -- did you say --

19 COMMISSIONER CERIO: It would be a
20 million.

21 COMMISSIONER KEISER: A million, yes.

22 COMMISSIONER CERIO: Okay.

23 CHAIRMAN BERUFF: Commissioner Cerio.

24 COMMISSIONER CERIO: Brief follow up. How
25 do we determine the total votes? Is it by just

1 the ballots?

2 COMMISSIONER KEISER: The Secretary of
3 State is able to determine the valid number of
4 ballots. And, in fact, that has been occurring
5 because the taxing amendment proposals require
6 the same.

7 COMMISSIONER CERIO: Okay, thank you.

8 COMMISSIONER KEISER: Yes. I did want to
9 just reiterate something.

10 CHAIRMAN BERUFF: Commissioner Keiser.

11 COMMISSIONER KEISER: Mr. Chair.

12 CHAIRMAN BERUFF: Commissioner Keiser. I
13 would like to go to questions to see if there
14 are questions, please.

15 COMMISSIONER KEISER: Yes, sir.

16 CHAIRMAN BERUFF: You can -- Commissioner
17 Schifino.

18 COMMISSIONER SCHIFINO: Thank you, Chair
19 Beruff. Two questions. The -- the first is,
20 you mentioned that this proposal may clear up
21 any inconsistencies that exist in the
22 Constitution. What inconsistencies were you
23 referring to?

24 CHAIRMAN BERUFF: Commissioner Keiser.

25 COMMISSIONER KEISER: Commissioner

1 Schifino, thank you. It is an excellent
2 question. Currently for a taxing amendment it
3 requires a two-thirds over all those voters
4 voting in the election, not registered voters,
5 Commissioners, but all of those voting in the
6 election.

7 The inconsistency I see is that if you are
8 looking to pass a singular measure, it isn't
9 all of the voters voting the election. Just
10 say for argument sake, which is a really low
11 number and not what we would ever anticipate or
12 encourage, but if 100 people vote, this is the
13 way it is currently.

14 If 100 people vote, let's say it is a
15 water issue, 100 people vote on this measure,
16 because the rest skip it or decide not to vote
17 on it, and 61 people vote in favor, it passes
18 right in the Florida Constitution. That is the
19 inconsistency that I am trying to --

20 COMMISSIONER SCHIFINO: The inconsistency
21 between how we address taxing issues and how we
22 address all other issues?

23 COMMISSIONER KEISER: The formula, yes.

24 COMMISSIONER SCHIFINO: Yes.

25 COMMISSIONER KEISER: And the equation.

1 COMMISSIONER SCHIFINO: Right.

2 COMMISSIONER KEISER: Go ahead.

3 COMMISSIONER SCHIFINO: Okay, and the
4 second question I am going to borrow a question
5 posed by Commissioner Cerio earlier today, and
6 that is, what problems if any are we trying to
7 fix with this particular proposal?

8 COMMISSIONER KEISER: Again, I am of the
9 opinion that as this state grows, and I have
10 seen special interests that focus on a singular
11 measure, on a singular issue, because it has
12 specific meaning to an industry.

13 Well-financed, well-connected very often
14 out-of-state interest, and I believe that by
15 listening to what the voters said originally,
16 which is, if you are going to tax me, then I
17 want most people to weigh in on this, and it
18 was their petition to move this in the
19 direction of more voices being heard.

20 It remains to be seen, but it is an
21 important step forward, and I am hoping you
22 will allow the voters to decide whether or not
23 this is what they would like to do by passing
24 this on to the ballot. But I believe that is
25 one of the best ways to ensure that most of the

1 voters in Florida are weighing in on issues of
2 importance that will affect their lives if they
3 pass, whether they vote on them or not.

4 If a voter skips it and it still comes in
5 as favorable, it will impact their life. I
6 hope you agree.

7 CHAIRMAN BERUFF: Commissioner Carlton.

8 COMMISSIONER CARLTON: Thank you, Mr.
9 Chairman. I have a question of the sponsor.
10 Commissioner Keiser, if I am understanding the
11 way the language in your proposal reads,
12 essentially if there is an under-vote in the
13 election, then that under-vote is actually
14 counted as a no vote for purposes of passage of
15 this Constitutional Amendment, is that correct?

16 COMMISSIONER KEISER: Mr. Chairman?

17 CHAIRMAN BERUFF: Commissioner Keiser.

18 COMMISSIONER KEISER: Yes, Commissioner
19 Carlton, that is correct.

20 COMMISSIONER CARLTON: A follow up.

21 Yes. So if that is the case, I am
22 wondering if you think it would be fair if in
23 the vote for our U.S. Senator if every
24 under-vote was counted as a no?

25 CHAIRMAN BERUFF: Commissioner Keiser.

1 COMMISSIONER KEISER: Thank you for the
2 question, Commissioner Carlton. All I can say
3 in response to that is when, in my opinion, the
4 issues that are being brought forward, whether
5 it is water, whether it is environment, whether
6 it is having to do with how they are taxed, I
7 still believe that more votes have to weigh in.

8 And I also believe that the default
9 position for protecting the Constitution should
10 be no. So if I, as a voter, am looking over
11 the ballot and I do not feel that I am
12 well-informed enough on that issue, I am making
13 a choice by not voting on it. So the default
14 position becomes that it doesn't change the
15 Constitution.

16 CHAIRMAN BERUFF: Question. Commissioner
17 Coxe.

18 COMMISSIONER COXE: Commissioner Keiser,
19 using just the 60 percent that currently
20 exists.

21 COMMISSIONER KEISER: Right.

22 COMMISSIONER COXE: Where 60 percent of
23 voting on the issue, is there any state in the
24 nation that is a higher threshold than that
25 right now?

1 COMMISSIONER KEISER: There are other
2 states that are similar. There are other
3 states that we -- we are in the states that
4 have a higher standard. But again,
5 Commissioner Coxe, what I am addressing is on
6 the measure. So what we currently have is a
7 60 percent standard on the measure that does
8 not reflect all of those voting in the
9 election.

10 But we are, to answer your question
11 directly, we join other states in some cases
12 that are as high as we are; and there are other
13 states that don't even have the citizen's
14 initiative, the ability to bring forward a
15 ballot. So it is very hard to compare whether
16 we are the average, because of the different
17 processes in terms of impacting their
18 Constitution.

19 COMMISSIONER COXE: I was just referring
20 to the 60 percent on the issue.

21 COMMISSIONER KEISER: We are, we join
22 other states with that similar threshold.

23 COMMISSIONER COXE: And I take it there is
24 nobody higher than us in the country?

25 COMMISSIONER KEISER: I am not aware of

1 another state that is higher.

2 CHAIRMAN BERUFF: Commissioner Plymale is
3 recognized.

4 COMMISSIONER PLYMALE: Thank you. Can I
5 continue with, go back to the one million
6 people come to the polls, but only 900,000 vote
7 on the amendment? So that is -- so when they
8 go to count the votes, it starts with 100,000
9 no's, is that -- is that accurate?

10 CHAIRMAN BERUFF: Commissioner.

11 COMMISSIONER PLYMALE: I am sorry, I am
12 probably slower than --

13 CHAIRMAN BERUFF: Commissioner Keiser.

14 COMMISSIONER KEISER: Mr. Chair, may I ask
15 Commissioner Plymale to give me, to restate her
16 question to me, please?

17 CHAIRMAN BERUFF: Commissioner Plymale.

18 COMMISSIONER PLYMALE: A million people
19 come to the polls to vote today.

20 COMMISSIONER KEISER: Right.

21 COMMISSIONER PLYMALE: On Amendment 1,
22 only 900,000 people choose to vote on it. That
23 means that when we tally up the ballot or the
24 votes, 100,000 is the first, is the first count
25 at no.

1 COMMISSIONER KEISER: Yes.

2 CHAIRMAN BERUFF: Commissioner Keiser.

3 COMMISSIONER KEISER: The -- to address
4 that. When, again, the total number of people
5 voting in the election is the denominator. So
6 that is one million voters. If 900,000 vote
7 favorably, of course, the proposal passes, but
8 I believe your question is, the 100,000 that
9 did not vote on that, how are they counted?
10 And they are counted as no votes against
11 changing the Florida Constitution.

12 COMMISSIONER PLYMALE: So that is -- that
13 is the first. I am assuming that if a million
14 people go to the polls you are not going to get
15 900,000 voting yes. You are probably going to
16 divide those up somehow, but 100,000 of them
17 are counted as no before we start counting it
18 up, right?

19 COMMISSIONER KEISER: But Commissioner
20 Plymale, the question you have asked me and the
21 answer is, those that do not vote on the
22 measure, skip the measure, are by default
23 become no votes, correct. Yes, thank you.

24 COMMISSIONER PLYMALE: I just wanted to
25 make sure, thanks.

1 COMMISSIONER KEISER: Thanks, certainly.

2 CHAIRMAN BERUFF: Commissioner Lee is
3 recognized.

4 COMMISSIONER LEE: Thank you, Mr. Chair,
5 Chair Beruff. I did not see this proposal, I
6 didn't see many of them that came to the
7 committees I was on. So I am kind of reading
8 about it as I go. And the staff analysis here
9 is, you know, kind of just covers the purpose
10 of the amendment, itself.

11 Commissioner Keiser, you know what an
12 under-vote is? Okay, so do we have any
13 analysis of how many under-votes, how many
14 people drop off and don't vote as you go down
15 the ballot when you get to these Constitutional
16 Amendments over the last maybe ten or so that
17 have been on the ballot?

18 Has anybody looked at that to see what
19 that number is?

20 CHAIRMAN BERUFF: Commissioner Keiser.

21 COMMISSIONER KEISER: Thank you,
22 Mr. Chair. So we can look back 12 years. So
23 to answer your question directly, I do not have
24 the data today to provide you specifics about
25 the under-vote.

1 What I can say is that we can look back 12
2 years and we can look at of the 22 proposals
3 that passed, to give you some sort of trend or
4 some sort of idea. If my proposal was adopted,
5 including under-votes with the default position
6 being protecting the Florida Constitution and
7 then 12 of those 22 proposals that did pass
8 would not.

9 So that, that gives you over a 12-year
10 period, and we -- we were able to calculate
11 that, but I don't specifically have -- and I
12 have other examples as I said earlier. I think
13 the initial, the initial view of this is, well,
14 how will anything pass? But I think there are
15 many benefits again to the fact that when
16 people vote and let their will be heard, they
17 can counteract some of what has been happening
18 in the state with special interests. And that
19 is why I think this is worthy of consideration.

20 CHAIRMAN BERUFF: Commissioner Lee.

21 COMMISSIONER LEE: Have you thought about
22 maybe taking a look at those numbers? It
23 sounds like you have looked at them, you just
24 don't have them here with you. Have you
25 thought about taking a look at those numbers

1 and see how maybe it informs you about what,
2 the hard number you would need to get to to
3 kind of accomplish the same thing, whether it
4 be, you know, 65 or whatever that number might
5 be as opposed to going to this process where
6 all votes that are not cast in that particular
7 ballot measure are automatically counted
8 against it?

9 COMMISSIONER KEISER: I think it is an
10 excellent idea.

11 COMMISSIONER LEE: Okay, thank you.

12 COMMISSIONER KEISER: Thank you.

13 CHAIRMAN BERUFF: Further questions? At
14 this time I am going to past the gavel to
15 Commissioner Karlinsky because I would like to
16 go and ask a question.

17 CHAIRMAN KARLINSKY: Commissioner Lee you
18 don't seem very happy about that. I think,
19 Chair Beruff, you had a question, so you are
20 recognized.

21 CHAIRMAN BERUFF: Chair, first, it is good
22 to feel normal again. You get a little sort of
23 heady up there, you know.

24 Commissioner Keiser, I have two questions:
25 The 60 percent vote on the total turnout does

1 not affect simple majority in political races,
2 does it?

3 COMMISSIONER KEISER: Can you --

4 CHAIRMAN BERUFF: This has nothing to do
5 with it.

6 COMMISSIONER KEISER: No, absolutely
7 correct.

8 CHAIRMAN BERUFF: Okay.

9 COMMISSIONER KEISER: Okay, thank you, it
10 is late in the day. Thank you.

11 CHAIRMAN BERUFF: So the 60 percent only
12 affects Constitutional Amendments.

13 COMMISSIONER KEISER: With the standard we
14 have, exactly right, in the Constitution
15 currently.

16 CHAIRMAN BERUFF: Okay. So what happens
17 -- I am sorry, because I am not following my
18 own rules. Fred, you are supposed to give me,
19 recognize.

20 CHAIRMAN KARLINSKY: Commissioner Beruff,
21 you are recognized.

22 CHAIRMAN BERUFF: Thanks. You have to
23 recognize her. Come on, stay with it here.

24 So the -- the -- what is the result as
25 Commissioner Carlton earlier was alluding to,

1 of the under, you got Senator Smith against
2 Senator Jones, okay. And -- and -- and the
3 total vote turn out is 100,000. We will make
4 it real simple, the total vote. But there is
5 10,000 under-votes in Senator Smith. So it
6 just counts, the no's, the under-vote isn't
7 counted?

8 COMMISSIONER KEISER: So --

9 CHAIRMAN KARLINSKY: Commissioner Keiser,
10 you are recognized.

11 COMMISSIONER KEISER: Thank you. Thank
12 you, Mr. Chair. Because this isn't a new
13 concept, although it may feel very new, those
14 are questions that, that I believe are
15 excellent, but they are questions that the
16 Secretary of State has already wrestled with,
17 because as it relates to taxing amendments,
18 this is exactly what we are currently doing.

19 And so valid ballots cast in that election
20 are relevant to whether or not Constitutional
21 Amendments pass into the Constitution. So far
22 as the -- so this is --

23 CHAIRMAN BERUFF: So it has no effect on
24 races?

25 COMMISSIONER KEISER: No.

1 COMMISSIONER KARLINSKY: Commissioner
2 Keiser.

3 COMMISSIONER KEISER: Thank you,
4 Mr. Chair. My apologies.

5 CHAIRMAN BERUFF: Thank you very much,
6 thank you.

7 CHAIRMAN KARLINSKY: Commissioner Solari,
8 did you have a question? Commissioner Gainey,
9 do you?

10 COMMISSIONER GAINNEY: Just so you are the
11 Chair, you called upon me, I will do this.
12 Another way to state it, 60 percent of the
13 total, forget the under-votes for a second. In
14 the 100,000 scenario, it is simply 60,000
15 period and how many voted. So 61,000, 62,000,
16 as long as the yes's was at least 60 in that
17 scenario, it could pass?

18 CHAIRMAN KARLINSKY: Commissioner Keiser.

19 COMMISSIONER KEISER: Yes, the current
20 standard, yes.

21 CHAIRMAN KARLINSKY: Further questions?
22 Commissioner Cerio, did you have a question?

23 COMMISSIONER CERIO: No question.

24 CHAIRMAN KARLINSKY: Any further
25 questions?

1 Commissioner Joyner.

2 COMMISSIONER JOYNER: Thank you,
3 Mr. Chair. I would just like for Commissioner
4 Keiser to very simply state what this amendment
5 does, because the more questions and the more
6 answers, the more confusion, and I am not
7 getting it.

8 CHAIRMAN KARLINSKY: Commissioner Keiser,
9 you are recognized.

10 COMMISSIONER KEISER: Commissioner Joyner,
11 thank you for the opportunity. It would be my
12 pleasure. So currently in the Constitution,
13 and I am just going to use the simple numbers.

14 Currently in the Constitution, the
15 standard for passing something into the
16 Constitution is 60 percent, over -- 60 percent
17 over -- those who voted on the measure by
18 60 percent. So if 60 percent like this idea,
19 okay, it passes in the Constitution. So I will
20 just say this, 100 people show up, are very
21 interested in the issue having to do with
22 greyhound racing, greyhounds in general.

23 We have heard a lot from the public about
24 this particular issue. Well, I just thought it
25 would be a good example, Mr. Chair. Okay, so

1 -- so if 100 people are very concerned about
2 greyhound racing and the other issues we have
3 heard as it relates to that issue, and I want
4 the Commission, the sponsors to have the
5 opportunity.

6 So if 100 vote on this particular issue,
7 and 60 say yes or no, this does not pass in the
8 Constitution. That is all that is required
9 because it is on the measure. The -- the base
10 number is just those who take an interest in
11 the individual amendment.

12 CHAIRMAN KARLINSKY: Commissioner Coxe,
13 you are recognized.

14 COMMISSIONER COXE: Commissioner Keiser, I
15 would really like to stand up and talk about
16 greyhounds, but if I had a gun I would shoot
17 myself. No thank you. Commissioner Nocco, are
18 you happy with that?

19 Commissioner Keiser, just so I understand
20 it. I applaud anything that encourages people
21 to go vote, anything at all, and I think that
22 is really what your mission is here, to get
23 more people involved in the election process.

24 But if I understand it correctly, if I am
25 committed to going to vote because I am

1 determined to vote in this particular election
2 and I am determined to vote for or against this
3 particular ballot amendment, but I am not
4 interested in this particular ballot amendment
5 over here, I am automatically a no vote as
6 opposed to I am just not counted? I am
7 automatically a no vote?

8 So am I -- is this telling me I have got
9 to vote on every single thing to count in the
10 electoral process? That is my question.

11 CHAIRMAN KARLINSKY: Commissioner Keiser.

12 COMMISSIONER KEISER: Mr. Chair, thank
13 you, and Commissioner Coxe, I appreciate your
14 question. Commissioners, when we vote or when
15 the public votes, I believe that when you walk
16 in, I, myself, have skipped something on the
17 ballot. Skipped something on the ballot
18 because perhaps I felt I have researched it but
19 I haven't maybe researched it enough or I have
20 read it and I said to myself, this is just not
21 clear enough that I am not sure that I am going
22 to make this decision today.

23 Now, under my proposal, yes, that would be
24 a default would be not to change the
25 Constitution because that would be a no vote.

1 But I voted on everything else. So I guess for
2 me and perhaps for all of you we have to ask
3 ourselves, what ultimately does this mean when
4 we walk in to the ballot box and select the
5 ones we want to vote on, which is, of course,
6 our prerogative, but if we skip something or
7 decide not to vote on it, should -- because by
8 not making a decision on it, we are still
9 ultimately making a decision because of the way
10 that this is already in the Constitution.

11 It is on the measure, it is on the measure
12 currently. So, again, if 100 people walk in
13 and their interest is in greyhounds and 60 of
14 them vote favorably, greyhounds pass into our
15 Florida Constitution. Any other questions,
16 Mr. Chair? Sorry.

17 CHAIRMAN KARLINSKY: No problem.

18 Commissioner Schifino, you are recognized.

19 COMMISSIONER SCHIFINO: I am going to save
20 it for debate. It is a point of clarification
21 but I think we are probably close to done with
22 the questions so I will hold.

23 CHAIRMAN KARLINSKY: Further questions?
24 Is there debate? Commissioner Schifino? Do
25 you have a question? Sorry. Okay.

1 COMMISSIONER JOYNER: So are you saying
2 that if I decide that of the 10 proposals, I
3 look at them and say five I know, the other
4 five I don't have a clue, and I don't vote on
5 them, and I am going to penalized because I
6 didn't vote either way on them, and so my no
7 vote -- by not voting for them is a no vote?

8 COMMISSIONER KEISER: Commissioner Joyner,
9 by not voting on the particular amendment it
10 would be counted as a no. And again, I go back
11 to the taxing amendment. The flip side in the
12 advantage is people want to weigh in on taxes,
13 what people want to weigh in on very highly on
14 certain issues.

15 And in that universe of voters they said
16 if you are going to tax me, then it has got to
17 be those people voting in the election. But
18 there are other issues that I believe rise to
19 the level of importance to the voters, and I
20 can give you several examples which include
21 Amendment 1, and medical marijuana, and
22 Homestead Exemption, and those all would have
23 passed under my proposal beyond the 60 percent,
24 most around 70 percent, which says again to me,
25 that when voters care a lot they do register

1 their time and make the decision on the ballot.

2 CHAIRMAN KARLINSKY: Commissioner Joyner.

3 COMMISSIONER JOYNER: Thank you. You are
4 relating the taxing, the vote on taxes with
5 everything else. Have you done any research to
6 ascertain whether or not when it was decided
7 that someone wanted to raise it to the
8 two-thirds, that what the intent was on that
9 particular item, taxation?

10 Was it because they felt that this was
11 such an important issue that it alone
12 irrespective of what may come in the future in
13 the form of a ballot initiative, as we have had
14 many, didn't warrant anymore than the
15 60 percent?

16 And so but taxes are different, and so
17 they said, this is what we want. What was the
18 intent at that time? Because I think that
19 determines why the standard is different and
20 may not be applicable to all of the other
21 possible proposals that may go on the ballot.

22 COMMISSIONER KEISER: Mr. Chair,
23 Commissioner, thank you. What I know of that
24 initiative is it was brought forward by the
25 citizens of Florida and they said this is the

1 way we want it. This matters enough to us, we
2 need to hear more people. I don't want just a
3 few people weighing in on my taxes.

4 And as a citizen of Florida I can tell you
5 that safety and education and health care,
6 there are so many things that become part of
7 our Florida Constitution that I believe many of
8 our public members feel rise to that level of
9 importance.

10 And I would ask that you grant the
11 opportunity for the public to Commissioner
12 Joyner's point, to have that option to decide
13 again.

14 CHAIRMAN KARLINSKY: Further questions?
15 Commissioner Schifino.

16 COMMISSIONER SCHIFINO: No questions. I
17 thought we were going to debate next.

18 CHAIRMAN KARLINSKY: No, we have an
19 amendment. Any further questions? All right,
20 there is a late-filed amendment, 611438.

21 Okay. We have to take up Amendment
22 435946, Commissioner Carlton, you are
23 recognized to explain your amendment.

24 COMMISSIONER CARLTON: Yes.

25 CHAIRMAN KARLINSKY: 435946?

1 COMMISSIONER CARLTON: Yes, can I just
2 temporarily pass that one for a moment because
3 we have another amendment that --

4 CHAIRMAN KARLINSKY: So the late-filed
5 611438?

6 COMMISSIONER CARLTON: Correct.

7 CHAIRMAN KARLINSKY: Okay, do we need a --

8 COMMISSIONER CARLTON: Yes, so with the
9 Chair's indulgence, and I do not like being the
10 test case on the late-filed amendments, but
11 here it goes.

12 We have been working on some language for
13 this amendment, and Commissioner Keiser was
14 unsure which way she was going to go, if she
15 was going to go with her original proposal, she
16 had a strike everything amendment.

17 And so I had drawn the amendments to
18 several different proposals and now that she
19 has made up her mind, this is the bar code,
20 611438. So, Mr. Chairman, with the permission
21 of two-thirds of the body I would ask that it
22 be allowed to be introduced.

23 CHAIRMAN KARLINSKY: Thank you,
24 Commissioner Carlton. We will now vote on
25 whether to consider the late-filed amendment.

1 All in favor, vote yea.

2 (Chorus of yea's).

3 CHAIRMAN KARLINSKY: Opposed? Show the
4 amendment adopted. Commissioner Carlton -- or
5 show the amendment considered. I got a lot of
6 power up here as Chair. So Commissioner
7 Carlton, please explain Amendment 611438.

8 COMMISSIONER CARLTON: On the amendment,
9 thank you. Thank you, Mr. Chairman. So to the
10 amendment that is before you, again it is
11 because I know it is a little confusing and you
12 got two different colors of pink. This is
13 611438, drawn properly to the proposal as
14 explained by Commissioner Keiser.

15 So Commissioners, what -- I will just be
16 really up front with you. I am opposed to this
17 proposal in any way, shape or form. I will be
18 voting no on the proposal and I will leave my
19 comments on the proposal for the proper time
20 for debate.

21 However, at the same time, I think that if
22 it is -- if the proposal is going to pass off
23 of this floor and go into Style and Drafting, I
24 would like it to be in a form that I think is a
25 little more fair, is the best way I can say it.

1 So -- and I think the way to do that is if
2 in the future Commissioner Keiser thinks that
3 it is a good idea for all future Constitutional
4 Amendments to pass by the 60 percent of the
5 entirety of voters that are voting in that
6 election, not just the voters that voted on
7 that particular amendment, then I think it is
8 only fair that her amendment pass by the same
9 percentage of votes.

10 And so I have drafted this amendment,
11 Commissioner Martinez, Commissioner Stemberger
12 have sort of helped me with some legal language
13 to make sure we get the schedule correct and
14 all of that. So on advice of counsel, this
15 is -- this is the language that the collective
16 minds of the body have come up with that will
17 work.

18 Obviously, if there are any legal issues
19 with it or if Style and Drafting sees that they
20 need to make any improvements in it or
21 Commissioner Coxe or Schifino has a different
22 opinion, they can let Style and Drafting know.
23 But we did our best shot at, at making this
24 proposal a little more fair, I think is the
25 best way to put it, and that is the explanation

1 of the amendment, Mr. Chairman.

2 CHAIRMAN KARLINSKY: Thank you,
3 Commissioner Carlton. Are there questions on
4 the amendment? Questions on the amendment?
5 Commissioner Sprowls, you are recognized.

6 COMMISSIONER SPROWLS: Thank you,
7 Mr. Chair, and thank you, Commissioner Carlton.
8 I get what you are trying to do here, and I
9 don't have a problem with them. I guess my
10 question would be is it constitutional and has
11 there been any kind of legal precedent that we
12 have asked anybody for, because I think it is
13 obviously highly unusual to say, right, that we
14 have a separate constitutional proposal that
15 will pass at one threshold, where all --
16 everything else passes at a separate threshold.
17 That seems suspect, at best.

18 CHAIRMAN KARLINSKY: Commissioner Carlton.

19 COMMISSIONER CARLTON: Well, I am going to
20 took a shot at answering, and then I am going
21 to defer to the smarter person in the room who
22 is Commissioner Martinez. But it is a little
23 unusual, I will grant that. But basically we
24 are allowed as a body to put conditions on
25 these Constitutional Amendments.

1 Quite frankly, this condition could be put
2 on any of these proposals. It is just an extra
3 condition of the amendment drafted within the
4 amendment, itself. So if you look at what we
5 are doing, what we're essentially saying is
6 that, because if you look at way the schedule
7 is written, you are saying that the amendment
8 takes effect on the day it is -- on Election
9 Day.

10 However, after confirmation from the
11 Secretary of State the operative language does
12 not take effect unless there is the extra
13 requirement of 60 -- 66 percent -- 60 percent
14 of the total voters.

15 But Mr. Chairman, if I could defer to
16 Commissioner Martinez because he probably has a
17 better handle on those constitutional issues
18 than I do.

19 CHAIRMAN KARLINSKY: Commissioner
20 Martinez, you are recognized.

21 COMMISSIONER MARTINEZ: Thank you,
22 Mr. Chair. I have to confess, last night I did
23 not sleep at a Holiday Inn Express, I didn't do
24 that. So although I may play a constitutional
25 lawyer on television, I am not a constitutional

1 lawyer.

2 So what I did an hour ago is what I
3 usually do, is I called somebody who is much
4 better than me and I called one. I called
5 Barry Richard. And I asked Barry if we could
6 do this and if it would be constitutional, and
7 Barry said yes. However, you need to make it
8 very clear as to what it is that we are doing.

9 You need to put it on the record here.
10 And he did say that it was a first impression,
11 but based on his opinion, and he is about as
12 good as any constitutional lawyer as I know
13 certainly, that we could do it if we put on the
14 record what it is that we are trying to do.

15 So what we are trying to do here is to, if
16 it goes to the ballot in November, to make it
17 clear to the voters that it will become an
18 amendment if that particular proposal receives
19 60 percent of the voters voting in the
20 election, which is what, which is what Chair --
21 Commissioner Keiser wants.

22 So it is kind of unique, but he says that
23 is the best way that he thought that it could
24 be done.

25 CHAIRMAN KARLINSKY: Commissioner Sprowls.

1 COMMISSIONER SPROWLS: Thank you,
2 Mr. Chair, and I will take that as we are
3 outside our skis here pretty good.

4 Let me ask you this question. So we
5 obviously raised it at one point from
6 50 percent not long ago, to 60 percent
7 threshold to pass this by -- by a vote of the
8 voters. We didn't have a similar amendment on
9 that provision to make it pass, meaning back
10 then a simple majority would have passed a new
11 threshold for 60 percent, but under this
12 amendment it is contemplated to apply this new
13 standard to this amendment, is that right?

14 CHAIRMAN KARLINSKY: Commissioner Carlton.

15 COMMISSIONER CARLTON: That is -- that is
16 correct.

17 CHAIRMAN KARLINSKY: Further questions?
18 Commissioner Gaetz.

19 COMMISSIONER GAETZ: Thank you very much,
20 Mr. Chairman. Commissioner Martinez, I know
21 this is not your proposal and it is not your
22 amendment. You are simply in the arena, and he
23 is not the best lawyer, Coxe says.

24 Wow, I won't touch that line. But
25 Commissioner Martinez, with the Chair's

1 indulgence, may I ask Commissioner Martinez a
2 question?

3 CHAIRMAN KARLINSKY: Yes, sir.

4 COMMISSIONER GAETZ: Commissioner
5 Martinez, in your conversation with
6 Mr. Richards, did you -- did you inquire of him
7 whether he recalled any other time that an -- a
8 Constitutional Amendment in effect became
9 retroactive to the moment that it was passed?

10 CHAIRMAN KARLINSKY: Commissioner
11 Martinez.

12 COMMISSIONER MARTINEZ: The way he -- yes,
13 Commissioner Gaetz, the way he explained it to
14 me, he thought this was a first impression.
15 However, he thought if it is placed on a
16 schedule which is the way this would be done,
17 that he thought it would be constitutional.
18 That is the way he best explained it to me.

19 CHAIRMAN KARLINSKY: Commissioner Gaetz
20 for a follow up.

21 COMMISSIONER GAETZ: Thank you very much,
22 Mr. Chairman. In that case, Senator Carlton, I
23 just had this question. We -- our proposals
24 don't go to the Supreme Court for review, they
25 don't go to the Legislature or the Governor,

1 but we are fortunate to have the Attorney
2 General of Florida as a member of our
3 Commission and I don't think that is by
4 accident.

5 If this is, and I realize that you are
6 opposed to the underlying proposal. So this
7 may all be moot. But it seems to me that if we
8 go forward with something that is
9 extraordinarily unique and if we have, at best,
10 an informal opinion from, you know, two
11 well-respected lawyers, do you think that it
12 would be appropriate before we go too much
13 further or maybe if this comes off the floor to
14 have Style and Drafting consult with the
15 Attorney General?

16 We have the opportunity to get the
17 Attorney General's views on this, if not an
18 Attorney General's opinion on whether what we
19 are doing is too unique.

20 CHAIRMAN KARLINSKY: Commissioner Carlton.

21 COMMISSIONER CARLTON: Thank you, Mr.
22 Chairman. Commissioner Gaetz, I think that is
23 a very good idea if this proposal does come off
24 the floor. I do think that Style and Drafting
25 would need to look at this from a legal

1 analysis and perhaps seek outside counsel or
2 the advice or an opinion from the Attorney
3 General. So I think that is a very good
4 suggestion.

5 CHAIRMAN KARLINSKY: Commissioner Gaetz.

6 COMMISSIONER GAETZ: Then my final
7 question, Commissioner Carlton, is given the
8 fact that you, that you oppose the underlying
9 proposal but you are trying to make that
10 proposal as you put it, more fair, should it
11 come off the floor? Do you urge us to vote for
12 the pending amendment or do you urge us to
13 merely hold our powder for the underlying
14 proposal?

15 CHAIRMAN KARLINSKY: Commissioner Carlton.

16 COMMISSIONER CARLTON: I am -- because I
17 can't count my chickens before they hatch and
18 anybody that has watched this process knows
19 that the predictable is unpredictable and the
20 unpredictable is predictable, I am going to be
21 in the unique position, I am not sure I have
22 ever said this before, I would like for the
23 body to vote, adopt my amendment, and then in
24 debate I will be opposed to the Bill even if
25 this amendment is adopted.

1 CHAIRMAN KARLINSKY: Commissioner Smith.

2 COMMISSIONER SMITH: Thank you, Mr. Chair.

3 Yes, the hour is late and I think we are

4 adjourning at 6:00. And we have some concerns

5 about the constitutionality of this amendment.

6 So what I would propose and I don't know if I

7 have to do it as a motion, is that we TP the

8 amendment, TP the proposal, we can look at it

9 through the night, and I am sure there is a lot

10 of constitutional lawyers looking at this and

11 we have lawyers on staff; since the hour is

12 late and we have questions, serious questions

13 about the constitutionality of this amendment,

14 I would move that we TP the amendment and the

15 proposal for now.

16 CHAIRMAN KARLINSKY: Motion by Senator

17 Smith to TP the amendment and TP the proposal.

18 All in favor?

19 (Chorus of yea's).

20 CHAIRMAN KARLINSKY: Any opposed?

21 A VOICE: Nay.

22 CHAIRMAN KARLINSKY: The aye's have it.

23 So the proposal will be TP'd. I am going to

24 turn the gavel over back to Commissioner

25 Beruff, Chair Beruff. Thank you.

1 CHAIRMAN BERUFF: We have hands, we have
2 hands, do you want to count the yea's and
3 nay's? Open the board, please.

4 COMMISSIONER SMITH: This is on the motion
5 to --

6 COMMISSIONER KARLINSKY: Excuse me, what
7 exactly are we going to vote on?

8 CHAIRMAN BERUFF: You are voting on the
9 motion, yes, the motion to TP the amendment and
10 the -- the -- the amendment and the proposal.

11 COMMISSIONER KARLINSKY: Great.

12 CHAIRMAN BERUFF: One at a time. But we
13 are going to first vote on the motion to --

14 COMMISSIONER KARLINSKY: Temporarily
15 postpone it. That is the only thing we are
16 voting on right now.

17 CHAIRMAN BERUFF: First the amendment,
18 then the proposal.

19 COMMISSIONER KARLINSKY: All those in
20 favor signify by saying -- well, no, we got the
21 board, just vote. There you go. I think
22 everybody vote, please, so we can get a tally.
23 Has everybody voted?

24 Close the board and announce the tally,
25 please.

1 THE SECRETARY: Twenty-four yea's, seven
2 nay's, Mr. Chair.

3 CHAIRMAN BERUFF: We are temporarily
4 postponing until tomorrow because we are going
5 to adjourn in five minutes, so we don't have
6 enough time.

7 We are TP'ing the proposal now until
8 tomorrow. Everybody have fun tonight. Oh,
9 okay, we need a motion for adjournment. Is
10 there -- there is a motion and there a second
11 for adjournment, no?

12 A VOICE: Recognize Tim.

13 CHAIRMAN BERUFF: Recognize Tim, excuse
14 me.

15 COMMISSIONER CERIO: Thank you, Mr. Chair.
16 I move the Commission adjourn until tomorrow,
17 Tuesday, March 20th, at 9:00 a.m.

18 CHAIRMAN BERUFF: Perfect, so moved. Are
19 we done?

20 (Whereupon, the proceedings were
21 concluded.)

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C E R T I F I C A T E

STATE OF FLORIDA)

COUNTY OF LEON)

I hereby certify that the foregoing transcript is of a tape-recording taken down by the undersigned, and the contents thereof were reduced to typewriting under my direction;

That the foregoing pages 165 through 360 represent a true, correct, and complete transcript of the tape-recording;

And I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

Dated this 8th day of May, 2018.

CLARA C. ROTRUCK

Notary Public

State of Florida at Large

Commission Expires:

November 13, 2018

Commission NO.: FF 174037