

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CONSTITUTION REVISION COMMISSION

P.M. SESSION

APRIL 16, 2018

Volume II

Pages 162 - 316

Transcribed by:

CLARA C. ROTRUCK

Court Reporter

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

2 CHAIRMAN BERUFF: Further debate on the
3 motion?

4 Commissioner Joyner is recognized.

5 COMMISSIONER JOYNER: Thank you,
6 Mr. Chair.

7 The ultimate question that is posed is if
8 you want term limits and civic literacy, then
9 you have to give up control of your local
10 schools. And these are three distinct
11 questions that should be dealt with separately.
12 And I think that this is the true test for
13 unbundling and that's what we should do on this
14 revision.

15 CHAIRMAN BERUFF: Further debate on the
16 motion?

17 Commissioner Levesque is recognized.

18 COMMISSIONER LEVESQUE: Thank you, Mr.
19 Chairman, and I am going to debate against the
20 motion to send to Style and Drafting and
21 unbundle because absolutely these issues are
22 related. They are related because they all
23 deal with Article IX, Sec- -- the article
24 relating to education in the Constitution.
25 They're all related because they're all related

1 to K through 12 education, School Board
2 supervision, what is being taught. All of
3 those things are absolutely related.

4 I think my dear friend, Commissioner
5 Martinez, is struggling with an issue of what
6 is related to and what's germane, and there's a
7 very big difference. Something that is related
8 to can be related to in a very broad sense,
9 like K through 12 education. And the substance
10 of that ballot summary is very clear in
11 articulating what are those proposals and
12 giving sufficient notice to the voters as what
13 is underneath them.

14 The other thing that I think we should be
15 really clear about here is the
16 mischaracterization of the Proposal 71 as being
17 totally about charter schools, which it is not.
18 There is nothing in that -- in the language
19 that relates to charter schools. There is
20 nothing that says the Legislature's going to
21 create a state board over charter schools.

22 And when we get to debate on the
23 underlying substance of the bundled proposal,
24 you will hear me reiterate what I said when we
25 first debated 71. It is about the governance

1 of public schools and the innovation that can
2 occur when we can have more lab schools, when
3 we can have more community college, state
4 college, collegiate high schools that don't
5 have to be charters. There is much more in 71
6 related to innovation that can occur in the
7 public K through 12 education system.

8 All three of the proposals that have been
9 bundled have to do with K through 12 education,
10 and voters, you are -- voters have the ability
11 to look at all of the proposals together and
12 decide whether or not they want all three of
13 those things in our Constitution or not, and I
14 would ask for you to not support the motion to
15 unbundle the three.

16 CHAIRMAN BERUFF: Further debate on the
17 motion?

18 Commissioner Donalds is recognized.

19 COMMISSIONER DONALDS: I also would ask
20 not to support this motion for several reasons.
21 I will reiterate and agree with Commissioner
22 Levesque that these are, probably of all of the
23 groups, one of the most, if not the most
24 related group there is, the fact that they are
25 all the K to 12 proposals put together, and

1 they would be -- at least when we voted on the
2 K to 12 proposals a few weeks ago, we all
3 assumed, many of us, that all four of the K to
4 12 proposals that we passed in this chamber
5 would be grouped together. I know I did. And
6 Commissioner Martinez, who is making this
7 motion actually in his close on Proposal 93,
8 said that Proposal 93 would help Proposal 71
9 pass.

10 So even his own assumption here on this
11 floor several weeks ago was that all of the
12 K-12 proposals would be grouped together when
13 they got to Style and Drafting.

14 Now, it was mentioned earlier that these
15 special interests have kicked up here in the
16 final weeks of our deliberations and our
17 process. And that is not a surprise, certainly
18 not to me, and it shouldn't be to most of you
19 who have been involved in this process, that
20 there is some opposition to some of the things
21 that we are doing.

22 And, of course, that opposition is quite
23 selective. We just had a vote on Proposal
24 6002, only seven nay's on that vote and not
25 much discussion about unbundling things that I

1 would argue are much less related than the
2 issues that we are talking about here in
3 Proposal 3.

4 The difference is the level of special
5 interest opposition to one of those proposals
6 that they would like to see unbundled so that
7 they can attack that proposal in and of itself,
8 which is fair. I understand what they're
9 doing. They do it in education at every level.
10 If they don't win on policy, they attack the
11 process, and that's what we've seen happen here
12 this morning.

13 But the process is sound. What -- the
14 process that we went through as Commissioner
15 Carlton went through in her debate on this
16 original amendment, we agreed on these rules.
17 We all expected exactly this to happen, that we
18 would go through, speak on each individual
19 policy, that it would go to Style and Drafting,
20 that Style and Drafting would group those
21 proposals, and those proposals would come back
22 as -- as related as possible to this body and
23 we would vote on them. And, in fact, the
24 groups, including this group, received only two
25 nay's in the Style and Drafting Committee.

1 This group in particular, Proposal 3, received
2 zero nay votes in Style and Drafting, including
3 Commissioner Martinez.

4 So the difference between then and now, I
5 would argue, is a political one, is one to try
6 and break down some things that certain groups
7 do not like, but that is not a reason to
8 disrupt what is a deliberate and solid process
9 and the process that we are going to go through
10 for all of these proposals, including the two
11 that we just voted on and passed
12 overwhelmingly, because if we start to disrupt
13 the process now on this, then that calls into
14 question all of the other groupings that were
15 not used as an example of perhaps an egregious
16 grouping.

17 I think all of the groups are reasonable.
18 I think the Style and Drafting Committee said
19 so with their votes of only two nay votes out
20 of all the groups that are coming back to us,
21 and I think that we have to stick with this
22 deliberate process and respect the process and
23 the outcomes that we all expected at this
24 point.

25 So I would ask that you not support this

1 motion, that we move on to debate the K to 12
2 proposals as they stand.

3 I will say I supported 93 in the last vote
4 with the assumption that the K to 12 package
5 brought forward by the CRC would be something
6 that we all could move forward and support, and
7 I think that that was an assumption that was
8 made by many here. Unfortunately, that changed
9 since then, but this remains all K to 12
10 proposals that made it off of this floor, all
11 with well over the 22 votes required, and I
12 would ask that you support the work of the
13 Style and Drafting Committee.

14 CHAIRMAN BERUFF: Commissioner Johnson is
15 recognized on debate.

16 COMMISSIONER JOHNSON: Chair, is it
17 appropriate at this point for me to ask a
18 question of the Style and Drafting Chair?

19 CHAIRMAN BERUFF: Sure.

20 COMMISSIONER JOHNSON: Because like
21 Commissioner Donalds, I actually supported 71
22 the last time, or was planning to, with the
23 assumption that it would be grouped with 93.
24 So I would not independently support 71.

25 My question is, given the logic that I've

1 heard very eloquently presented by my fellow
2 Commissioners on both sides of the debate,
3 what's the rationale, then, for leaving 93 --
4 other than Commissioner Martinez asked for it
5 that way, what would be the rationale for
6 leaving it independent, other than assuming
7 it's not going to make the ballot?

8 CHAIRMAN BERUFF: Commissioner Heuchan is
9 recognized.

10 COMMISSIONER HEUCHAN: Thank you, Mr.
11 Chairman. Thank you, Commissioner Johnson.

12 The rationale really was two-fold. When
13 we did the -- this crazy effort to -- to draft
14 titles and summaries, which was exhaustive
15 between stuff we were getting from you guys,
16 information we were getting from the committee
17 members and information we were getting from
18 our lawyers and our staff, we have a body of
19 work, Commissioner Johnson, that would make
20 your head spin.

21 There is any number of varieties of ways
22 you can talk about things, whether they be the
23 titles or the summaries -- and there was
24 great -- I wouldn't say great dispute, but
25 there was certainly disagreement about some

1 people wanted to go real, real far on the
2 editorial -- on what I would consider to be the
3 more editorializing. I personally pushed back
4 on that, as many of you know, because I felt
5 like it is risky. I felt like it wouldn't be
6 tolerated by the Commission.

7 Then you have on the other end, there were
8 amendments and discussions trying to frame
9 things and talk about things in a more negative
10 light. I pushed back on that as well.

11 To your specific question about how they
12 ended up apart, there just wasn't enough room.
13 The 75-word limit, by the time -- in fact, in
14 all of my groupings like that I did myself on
15 my computer with my spreadsheets -- and
16 Commissioner Carlton got me weaned off of my
17 computer, we went kind of old school to our
18 note cards and moving things around on a table,
19 and we saw this from -- Commissioner Stargel
20 had 15 of these.

21 In each one of those, these four proposals
22 were literally interchanged in some form or
23 another, or in many cases, they were put
24 together, all four of them. But in the final
25 analysis, there wasn't enough room to fit the

1 clear, unambiguous chief purpose, which was the
2 guidance we got from our lawyers, we got from
3 Commissioner Martinez, you got to do the chief
4 purpose and it can't -- and it can't be
5 ambiguous. So when we got done with that,
6 yeah, you couldn't fit them all in.

7 So could School Board term limits have
8 come out of there? Sure. Could civic literacy
9 come out of there? Civic literacy in my -- in
10 my batch --

11 CHAIRMAN BERUFF: Commissioner --

12 COMMISSIONER HEUCHAN: I'm sorry, Chair.

13 CHAIRMAN BERUFF: -- Heuchan, I think
14 you've answered the question.

15 COMMISSIONER HEUCHAN: Have I? Because I
16 will keep going.

17 CHAIRMAN BERUFF: Commissioner Johnson.

18 COMMISSIONER JOHNSON: Would you mind if I
19 had a follow-up question?

20 CHAIRMAN BERUFF: Yes, you can have a
21 follow-up question, then Commissioner Sprowls
22 will be recognized right after.

23 COMMISSIONER JOHNSON: Was there any --
24 was there any weighting given to relative
25 relatedness? So I would argue that 71 and 93

1 are more similar than civic literacy and 71.
2 Was there any weighting given to -- because, I
3 mean, Commissioner Martinez was only one vote,
4 I'm assuming, in that conversation. So even if
5 he preferred to have his -- to have 93 not be
6 bundled, still there were other votes that
7 could have overridden his preference. So were
8 you weighting logic and putting the things that
9 were most similar together?

10 COMMISSIONER HEUCHAN: Yes, yes, ma'am, I
11 thought so. And Commissioner Martinez, while
12 he had one voice and one vote, he's-- he's very
13 influential and he convinced me that Proposal
14 93 should be separated from those. In fact, he
15 convinced not only me, but everyone else.

16 CHAIRMAN BERUFF: Okay. Back to debate.
17 Commissioner Sprowls is recognized. Thank you.

18 COMMISSIONER SPROWLS: Thank you,
19 Mr. Chair.

20 I want to provide some additional context
21 there because I think it's an important
22 question, and that is when we're talking about
23 K-12s, I think that all things being equal, if
24 there were no changes or amendments or anything
25 like that, that Commissioner Martinez'

1 proposal, which was related to K-12, would have
2 been bundled.

3 I think the difference is that there was a
4 substantive amendment -- and I want to make
5 sure my memory wasn't failing me. So I went
6 over to ask Commissioner Martinez, but there
7 was a -- there was an amendment to the
8 innovation proposal. There was also an
9 amendment to Commissioner Gaetz' proposal.

10 So just to give context, both of those
11 received, you know, the requisite number of
12 votes based on our conversations in Style and
13 Drafting to be bundled together.

14 There was some conversation about taking
15 civic literacy and putting it on Commissioner
16 Gaetz' because we thought that was, you know,
17 something that could be certainly relevant to
18 the grouping mechanism. I think the reason
19 that didn't happen was because we had enough
20 word count to move civic literacy over.
21 Commissioner Gaetz' proposal was initially
22 amended in Style and Drafting. There was the
23 anticipation that it was going to be amended
24 again on the floor in the form of a strike-all,
25 which we will take up later today.

1 So I think in those two proposals, there
2 was at least a perception among the committee
3 members -- I can speak for myself -- that there
4 was going to be either amendments in Style and
5 Drafting or amendments on the floor, in
6 addition to, of course, Mr. Martinez' request,
7 but I think with all respect to Commissioner
8 Martinez, his request that it run separate was
9 not -- certainly not the defining factor for me
10 so much as the other issues, namely the fact
11 that that was going to be amended.

12 CHAIRMAN BERUFF: Further debate?

13 Commissioner Martinez is recognized.

14 COMMISSIONER MARTINEZ: Maybe I am out of
15 turn, Your Honor -- I mean, Mr. Chair. Maybe I
16 should go towards the end --

17 CHAIRMAN BERUFF: You're never out of turn
18 here.

19 COMMISSIONER MARTINEZ: Thank you.

20 I just want to clarify something, and
21 there's a video recording of the hearing. The
22 way the -- we got the grouping as it reflected
23 this particular issue is that 93 was
24 disaggregated out. And when it was presented
25 to us, I remember Chair Heuchan turning over to

1 me and said, "Is that okay with you," and I
2 said, "That's fine," because I wanted them all
3 unbundled.

4 So it wasn't as if I requested that it be
5 unbundled. When I got to the committee, it was
6 unbundled. And I have -- I have a couple of
7 things I would like to say later when it is
8 time for me to close. Thank you.

9 CHAIRMAN BERUFF: Further debate? Further
10 debate on Revision 3? It is on the motion,
11 excuse me. Further debate on the motion?

12 COMMISSIONER MARTINEZ: May I close?

13 CHAIRMAN BERUFF: Please do.

14 COMMISSIONER MARTINEZ: Okay. Thank you.

15 There is no question that I want 93
16 unbundled from 71. There is no question about
17 that. Okay. I did not request that it be
18 unbundled, but I am very happy not to trapple
19 with P-71.

20 Okay. With regards to the comment about
21 special interests all of a sudden -- political
22 interest all of a sudden coming out of the
23 woodworks. My record on choice is clear going
24 back decades that I am pro choice with regards
25 to schools, and I support charters, okay. And

1 with regards to special interests, I mean, it
2 is no secret that the charter school movement
3 is a very strong special interest that is very
4 much behind this P-71. You know that,
5 Commissioner Donalds. So I am just saying the
6 obvious. There are special interests out there
7 that are interested in this issue in one way or
8 the other. Of course, there are. And the
9 charter school movement is probably the
10 strongest special interest pushing for this.

11 This is a game-changer for the charter
12 school people. You know that. I just happen
13 to disagree. I like charter schools. I just
14 happen to disagree that the solution is to
15 create a statewide agency to establish those
16 schools and to supervise them. I just don't
17 think that's the way to go. We are talking
18 about a major restructuring of the public
19 education system in our state, and that's why I
20 think what we should do here is have this
21 particular group sent back to Style and
22 Drafting to disaggregate out P-71 and let the
23 other two, civic literacy and term limit,
24 travel back together. I think it's the sense
25 of this Commission that they should.

1 But P-71 is a big deal. It is a big
2 game-changer. That's what you would like. You
3 want it to be a game-changer; otherwise, you
4 would be satisfied with the status quo.

5 The public should be entitled to vote on
6 that issue. Let's debate the idea, up or down,
7 as to whether or not they want P-71, but don't
8 put it together with civic literacy and term
9 limits. They're just not related. They may be
10 dealing with education generally, but they are
11 very different parts of our educational system.

12 Thank you.

13 CHAIRMAN BERUFF: We will now vote on the
14 motion. All those in favor, signify by saying
15 yea.

16 (Chorus of yea's.)

17 CHAIRMAN BERUFF: All those against, by
18 nay.

19 (Chorus of nay's.)

20 CHAIRMAN BERUFF: The nay's have it. The
21 motion fails.

22 No problem. I knew that was coming. Open
23 up the board, please.

24 Has everybody voted?

25 Close the board and announce the tally,

1 please.

2 THE SECRETARY: Thirteen yea's, 22 nay's,
3 Mr. Chair.

4 CHAIRMAN BERUFF: The motion fails. We
5 are now on debate on Revision 3. Debate?

6 Commissioner Joyner is recognized in
7 debate, Revision 3.

8 COMMISSIONER JOYNER: Thank you,
9 Mr. Chair.

10 I am faced with the same decision that the
11 voters would have if this gets there. And so
12 do I want term limits and civic literacy and
13 give up local control of my schools
14 simultaneously? No.

15 You know, when I served in the
16 Legislature, the opposing party was fond of
17 railing against Washington, the heavy hand, the
18 top-down approach, the loss of local control
19 and the mandates. They claim that the battle
20 over ObamaCare, our taxes or federal aid came
21 down to a bunch of bureaucrats in DC versus the
22 people closest to the community, the locally
23 elected representatives of the people versus
24 those far removed.

25 And so it is ironic to me that here we are

1 debating a measure that would strip local
2 control from those closest to the people and
3 hand it over to bureaucrats far removed from
4 the communities it will affect. The only
5 difference is that these bureaucrats are in
6 Tallahassee, because anyway you describe this
7 measure, it is another broad-side attack on
8 public education.

9 This gift to the charter school industry
10 is cobbled -- cobbled with School Board term
11 limits and civics education to make it more
12 palatable. Kind of like taking a spoonful of
13 cod liver oil and figuring out how to make it
14 easier to swallow. It strips the right of
15 local School Boards, the education
16 representatives directly elected and
17 accountable to the people in the communities
18 they serve, from having any say in whether a
19 charter school is approved. It is these very
20 same School Board members who are on the front
21 lines of the public school system educating our
22 children. They see first-hand the critical
23 state of public schools today: The lack of
24 money for crumbling buildings, the pitiful
25 teacher pay, the never-ending mandates, and

1 more -- as more and more money is handed to
2 charter schools in the industry that profits
3 behind it.

4 This measure effectively muzzles them. It
5 hands over control of the future of the charter
6 school industry to those who have a vested
7 interest in seeing their entity succeed. It is
8 special interest.

9 So I ask you why? Why is this even before
10 us? It does not belong in the Constitution,
11 not alongside Section 9 that promises a
12 high-quality public education and assures that
13 every student in Florida have it.

14 We are seeing the degradation of public
15 education because, face it or not, that's what
16 this will do.

17 I know that the talk is about innovation.
18 We can have innovation without putting this in
19 the Florida Constitution. That's why we
20 elected representatives to the Florida
21 Legislature, because if something -- if there
22 is a mistake, if there are unintended
23 consequences, they can be fixed. But once this
24 goes in, it can't get fixed unless the people
25 come back perhaps with the mandate of their --

1 an initiative of their own, unless the
2 Legislature decides to do it.

3 But that promise of that free public
4 education is being eroded year after year,
5 measure after measure. There's money to be
6 made, and education, like criminal justice,
7 like health care, can be highly profitable.
8 And at the end of the day, should you decide
9 stripping local controls belongs in the State
10 Constitution, why hitch it to anything? Why
11 doesn't it stand alone?

12 If it is so worthy and so good that it has
13 your endorsement and your name behind it, then
14 let this charter school measure stand on its
15 own merit and let the people decide. Let it be
16 local control. Let it be the people's vote.

17 I can't support this Revision 3. The
18 other measures, they're up for grabs. Term
19 limits, civic literacy, they're appealing, but
20 this one is the overriding game-changer that
21 will forever make education different in the
22 State of Florida because someone who has --
23 some entity, no accountability to the people,
24 they don't elect them, if we put this in the
25 Constitution, we are giving away local control

1 and our ability to have the major say in the
2 education system of the State of Florida.

3 CHAIRMAN BERUFF: Debate on Revision 3?

4 The Chair sees no further debate on
5 Revision 3. Oh, Commissioner Levesque.

6 COMMISSIONER LEVESQUE: Thank you, Mr.
7 Chairman.

8 So I stand in support of Revision 3, and I
9 am going to focus on the proposal, the portion
10 -- Proposal 71 that is getting the most
11 attention, and I want to remind everyone that
12 we are really talking about a governance issue,
13 right? The language that was written in our
14 Constitution back in 1968 that says, "School
15 Boards shall operate, control, and maintain the
16 system of free public schools" was written 50
17 years ago.

18 And as I said earlier on the floor, before
19 the cell phone was invented, before the
20 Internet, before Walt Disney World was even
21 located in Florida. But I actually did some
22 more research and I want to describe what the
23 state of Florida was like back in 1968.

24 Back in 1968, the total population of the
25 state of Florida was 6.6 million population,

1 right, which is about the same as what Dade,
2 Broward, and Palm Beach County are right now.
3 The total student population in the state of
4 Florida was 1.4 million, the K through 12
5 student population, which is about the student
6 population of Dade, Broward, and Palm Beach
7 County right now. That was statewide.

8 Back in 1968, we only had six state
9 universities, and the total population of the
10 university system was 60,000 students. That's
11 about the student population of UCF right now.

12 The world that we lived in in 1968 did not
13 contemplate what could be. It did not
14 contemplate universities running lab schools.
15 And I want to tell you about a particular one
16 that my staff visited in between our first vote
17 and this one, and that is the Henderson Lab
18 School.

19 Did you know that at the A. D. Henderson
20 Lab School that students graduate earning their
21 Bachelor's degree, not their Associate's
22 degree. They graduate earning their Bachelor's
23 degree along with their high school diploma.
24 It is incredible. If the Legislature wanted to
25 commission A. D. Henderson Lab School to open

1 up in 20 other counties, they couldn't. They
2 couldn't do it because those other counties
3 could challenge and say that's a public school
4 and it's not under my jurisdiction and
5 authority.

6 We have state colleges that are running
7 collegiate high schools. Some are running them
8 in partnership with the districts, some are
9 running them as charter schools. We have one
10 state college in Southwestern Florida that
11 operates two. They operate two collegiate
12 charter schools. They have a five Kenny
13 catchment area, and they want to operate three
14 more. They can't. They can't do that now even
15 though they're running high-performing
16 collegiate high schools because they have to go
17 through a process where they get shut down.

18 We have no idea what could be. This is --
19 people are describing this as only about a
20 charter school issue, which, by the way, I
21 would point out, there is nothing in here that
22 says the Legislature would create a statewide
23 governing board. In fact, I would argue should
24 this pass, I wouldn't advocate for a statewide
25 governing board. I would advocate for a

1 different model. But what we know could happen
2 if this is freed up is that the Legislature
3 could be very innovative. They could set up a
4 residential math and science school. They
5 could -- they could say we want to make sure
6 within 100 miles of every student, there is a
7 college that will offer a Bachelor's degree or
8 an Associate's degree at the same time as a
9 student can earn their high school diploma.

10 They could do so many more things than
11 right now they cannot do because right now, we
12 have a governance model that was built 50 years
13 ago, 50 years ago. And I would ask you to
14 support this Proposal 3 because of the
15 innovations that can occur.

16 I am so proud of the state of Florida. I
17 am so proud of our education system. Last --
18 last week, the National Assessment on
19 Educational Progress, the NAEP scores, right,
20 the only state test that all 50 states
21 participate in, and Florida was the only state
22 in the country that had statistically
23 significant gains, the only state in the
24 country. The only state in the country. And
25 it's because policies are working. And this

1 proposal, if the voters should approve it, will
2 only make us continue to move forward so that
3 we will be number one in the country.

4 I ask for your favorable support. Thank
5 you.

6 CHAIRMAN BERUFF: Commissioner
7 Kruppenbacher for the first time today.

8 COMMISSIONER KRUPPENBACHER: I was going
9 to remain quiet. I've spent close to 40 years
10 representing public schools, I've done charter
11 schools, et cetera.

12 I don't agree -- I have a great deal of
13 respect for Commissioner Levesque, but I'm not
14 prepared to sit here and let the Legislature
15 hide behind a statement that they haven't been
16 able to do things. The Legislature could do
17 everything virtually that this amendment is
18 asking for as it relates to creative steps.

19 Right now, they're the ones that don't
20 allow more high schools at the universities or
21 at the colleges. They are the ones that moved
22 and created the option for charter schools.
23 They can control how they're overseen, right.

24 So regardless of the merits of this actual
25 proposal, I do not want -- and I'm not going to

1 sit here or the public to think the Legislature
2 somehow needs this to be able to do something.
3 What it needs is the leadership to do it.

4 CHAIRMAN BERUFF: Further debate on
5 Revision No. 3?

6 Commissioner Donalds is recognized.

7 COMMISSIONER DONALDS: Thank you.

8 And just to be clear, this is in response
9 to a constitutional challenge where the
10 Legislature created -- was originally in
11 response to a constitutional challenge of Duval
12 versus State of Florida where the Legislature
13 cannot control who supervises, operates,
14 controls the public schools based on the
15 constitutional language.

16 And the -- some of the things that
17 Commissioner Levesque brought up, even in my
18 own county where students are not able to take
19 advantage of the highest-performing collegiate
20 high school in Charlotte County,
21 highest-performing collegiate high school in
22 Lee County, and that same entity that I would
23 love to see operate a high-performing
24 collegiate high school in my own county that I
25 know our students and our families are

1 desperate for, cannot do so for political
2 reasons.

3 Again, I will say of all the ballot
4 proposals that we're considering, this logical
5 grouping in Article IX all dealing with K to
6 12, to me, deserves our support. It is one of
7 those proposals that contains things that can
8 only be done in the Constitution, namely
9 Proposal 71, in response to a constitutional
10 challenge -- I'm going to go here, sorry.

11 So Florida, as Commissioner Levesque said,
12 has been on the forefront of reforms in
13 education, and a lot of what has been done at
14 the state level was vindicated in these past
15 couple of weeks with great credit to
16 Commissioner Stewart, Commissioner Johnson,
17 Commissioner Grady, others who have served in
18 the Legislature and the things that they've
19 done that school districts have pushed back and
20 pushed back and pushed back on.

21 The results that Commissioner Levesque
22 just talked about with the NAEP scores are some
23 that came from the state level, and they are to
24 be commended.

25 Some of what has been said disparagingly,

1 I think, about a government bureaucracy here in
2 Tallahassee could be said perhaps about our
3 State Board of Education, but I wouldn't say
4 that about them because I think they serve a
5 great purpose and a great service to the
6 students in our state, although they are not
7 elected and they are appointed.

8 Perhaps it could also be said about those
9 who run our university system and our state
10 colleges, who I also think are doing an
11 excellent job, although they are not elected,
12 but they are appointed by our elected Governor.

13 So I don't think that we should perhaps
14 disparage some of the other ways that entities
15 in our state that are doing a wonderful job are
16 being governed. And to Commissioner Levesque's
17 point and other points that I've made on this
18 floor, that is not what this proposal does.

19 You might say in response to these reforms
20 and the great results that we received on the
21 NAEP exam, well, then why do we need to do
22 anything? Well, how did we get here? Well,
23 first of all, we have a term-limited
24 Legislature, term-limited Legislature of people
25 who bring bold new ideas, and that term-limited

1 Legislature and the time that we've had term
2 limits has brought forth many of these reforms
3 that have been implemented that have brought us
4 to be the only state in the nation with those
5 significant gains in math and in reading. So
6 bravo to them.

7 But I would -- I would argue to say that
8 stagnation in the Legislature and the
9 stagnation in some of our School Boards would
10 not have brought those bold reforms that are
11 now the envy of the country. And I would like
12 to see that same level of fresh ideas and bold
13 innovations that we have seen in the
14 Legislature that have benefited our state and
15 our students at the School Board level.

16 The next question is, where will the next
17 wave of gains come from? Those of us involved
18 in education policy, we know that we can't rest
19 on our laurels, that careful examination of
20 these overall results will show opportunity for
21 improvement for certain groups of students, and
22 when these reforms have run their course and
23 another approach is needed or new innovations
24 are discovered, the question is will our
25 decision-makers, our Legislature, our Governor,

1 will they be able to respond? Will we continue
2 to lead the nation or will we be stuck behind
3 antiquated language in our Florida Constitution
4 that was put in place before a man landed on
5 the moon?

6 Consider this: In 1968, School Boards
7 operated, controlled, and supervised all of the
8 public schools. No one thought that there
9 would be anything different 50 years ago.
10 Since then, we now have over 650 charter
11 schools, Florida Virtual School, University Lab
12 School, on-line schools in every district. I
13 would ask, can we really say that the 645,000
14 people who voted for this constitutional
15 language in 1968, knew and knew that what they
16 were voting on would stop the Legislature from
17 being able to establish some of the ideas that
18 Commissioner Levesque put forth? Absolutely
19 not.

20 Those voters -- was that in the ballot
21 summary in 1968, that the State Legislature
22 will be inhibited from chartering schools,
23 establishing university schools, establishing
24 lab schools? Absolutely not. Those voters did
25 not know that. Unfortunately, that's been

1 decided by a Judge and not by the will of the
2 people.

3 I am going to ask you today to allow the
4 people of Florida to make this decision. Allow
5 the supporters of this proposal, the parents,
6 the people who want more control -- because
7 this is not about giving control to the state.
8 It is not -- it is about allowing the state to
9 do what they have done over and over, which is
10 to give more control to parents, to give more
11 choices to families.

12 The local School Boards didn't create the
13 Gardiner Scholarship for special needs
14 students. Local School Boards didn't create
15 the McKay Scholarship that allows low-income
16 students to find a better school when their
17 school is failing them, and they wouldn't. And
18 if they had any ability, they would block it
19 just like they've tried to block every single
20 school choice reform that has come through this
21 Legislature, every single one.

22 And I expect that anything that might come
23 out of this proposal, they will try to block
24 that as well because it is not about what's
25 best for the students to them. But the people

1 of Florida can decide through this proposal
2 whether our Legislature should again be able to
3 offer those families additional options as they
4 have done time and time again. The Legislature
5 should not be encumbered by unfair and
6 antiquated constitutional language that has
7 been used to block parental choice and protect
8 the education monopoly.

9 Here in 2018, 50 years after this language
10 was put in place, I believe it is our duty to
11 take the hog-tie off of our Legislature in this
12 one area that can only be done through the
13 Constitution, allow the voters the choice of
14 this issue as to whether we should expand
15 choices or we should not, and we should leave
16 all of those choices in the hands of one
17 entity.

18 States across this nation have done this.
19 Thirty-five states have an alternative way to
20 authorize charter schools. The world did not
21 end in those states, nor did public education.
22 Georgia did it through a ballot initiative just
23 a few years ago. Do we hear the overthrow of
24 public education in Georgia, in DC, and
25 Massachusetts? No. In fact, they have very

1 high-quality charter organizations.

2 It is not the end of public education here
3 either. It is the improvement of all public
4 education, because when parents have the
5 ability to choose and they have high-quality
6 options no matter where they live, that makes
7 everyone better because they're going to be
8 competing for those students, and they should
9 compete for those students and they should
10 treat those students as valuable, each and
11 every single one of them, and meeting their
12 individual needs.

13 And I would ask that your support on this
14 to allow the voters of Florida to make this
15 decision today based on all of the new
16 information and all of the new things that have
17 happened between 1968 and now.

18 Thank you very much.

19 CHAIRMAN BERUFF: Further debate on
20 Revision 3?

21 Seeing no further debate, Commissioner
22 Heuchan, would you like to close on Revision 3?

23 COMMISSIONER HEUCHAN: I waive close,
24 Chairman. Thank you.

25 CHAIRMAN BERUFF: Thank you. Quorum call.

1 THE SECRETARY: Quorum call, quorum call.
2 All Commissioners indicate your presence. All
3 Commissioners indicate your presence. Quorum
4 call, quorum call. All Commissioners indicate
5 your presence. Quorum call, quorum call. All
6 Commissioners indicate your presence.

7 CHAIRMAN BERUFF: I was going to say I --
8 all right. Commissioner Lee is here. I can
9 attest to that. Do you want to reset the
10 board, please?

11 THE SECRETARY: A quorum present,
12 Mr. Chair.

13 CHAIRMAN BERUFF: Thank you.

14 All those in favor, let's vote on Revision
15 3.

16 Has every Commissioner -- has everybody
17 voted? Close the board and announce the tally.

18 THE SECRETARY: Twenty-seven yea's, ten
19 nay's, Mr. Chair.

20 CHAIRMAN BERUFF: We're good to -- the
21 revision is adopted and shall be submitted to
22 the Secretary of State to be placed on the
23 ballot at the November 6th, 2018, general
24 election. Thank you very much, folks.

25 We will take up Revision 4. Please

1 introduce Revision 4, Commissioner Heuchan.

2 COMMISSIONER HEUCHAN: Chairman, I need
3 one second.

4 CHAIRMAN BERUFF: Excuse me.

5 COMMISSIONER HEUCHAN: One second -- one
6 minute, actually.

7 CHAIRMAN BERUFF: One minute. Somebody
8 start clocking him.

9 (Brief pause.)

10 CHAIRMAN BERUFF: Please introduce your
11 Revision 4.

12 COMMISSIONER HEUCHAN: Thank you,
13 Mr. Chairman.

14 Revision No. 4 comes in the form of
15 Proposal 91 and Proposal 65. The title reads
16 "Prohibits Offshore Oil and Gas Drilling;
17 Prohibits Vaping in Enclosed Indoor
18 Workplaces."

19 The proposals in Revision 4 were grouped
20 together in some form by every Commissioner who
21 submitted proposed groupings, meaning these two
22 were at least together. There were others that
23 were added to this grouping, but these two were
24 at least together. They were combined and
25 explained as measures to protect the

1 environment of our state, whether that be in
2 the workplace or on our beaches. These
3 proposals were not amended in Style and
4 Drafting. That is the explanation of Revision
5 4.

6 CHAIRMAN BERUFF: Thank you.

7 Questions on Revision 4? Commissioner
8 Rouson is recognized.

9 COMMISSIONER ROUSON: Thank you very much,
10 Mr. Chair.

11 Commissioner, it seems to me that the
12 gravity of prohibiting oil and gas drilling
13 does not necessarily rise to the level of
14 vaping in a restaurant. Can you explain a
15 little more the rationale behind the grouping
16 of these two?

17 CHAIRMAN BERUFF: Commissioner Heuchan.

18 COMMISSIONER HEUCHAN: Thank you, Senator
19 Rouson. If by your question you mean -- are
20 you saying that one seems more important than
21 the other, I mean, for lack of better words?

22 CHAIRMAN BERUFF: Commissioner Rouson.

23 COMMISSIONER ROUSON: Yes, sir.

24 COMMISSIONER HEUCHAN: Okay. Well,
25 Commissioner Rouson, I mean, I don't -- I can't

1 really speculate on whether or not one -- you
2 know, obviously you have -- you may have a
3 feeling or an idea about one being more
4 important than the other. I can tell you these
5 two proposals were pretty important to the
6 sponsors, and they sat together, they wore the
7 same clothes on some days, they -- they worked
8 together because -- and they even kind of
9 accepted a moniker that this proposal was
10 given -- given to them by Commissioner
11 Martinez: Clean air, clean water.

12 And -- and while in different articles, I
13 think Commissioner Speaker Nunez said it best,
14 I mean, most of the committee felt like -- and
15 others can chime in on this, but that if
16 anything went together, it was those two.

17 So I hope I am doing a good job of kind of
18 representing the will of that committee, the
19 will of the sponsors. Those two, by the time
20 you got done with all the other groupings,
21 those two did fit together. I certainly
22 support them being together. I hope I at least
23 answered at least a part of that, Senator.

24 CHAIRMAN BERUFF: Further questions on
25 Revision 4?

1 Close for questions and on to debate on
2 Revision 4. Debate on Revision 4.

3 Close, Mr. Heuchan while we're on a roll.

4 COMMISSIONER HEUCHAN: I waive my close on
5 Revision No. 4, PCP 6004.

6 CHAIRMAN BERUFF: Okay. Open up the
7 board. They're coming. We're not going to
8 close the board early this time, guys. No
9 worries. Commissioner -- one Commissioner
10 missing. We will leave the board open for
11 another minute or so. Oh, we're done now?
12 Donalds, we vote -- yeah, I know what Donalds
13 will -- pretty sure.

14 Close the board and announce -- no,
15 Donalds -- close the board. Let's go.

16 THE SECRETARY: Thirty-three yea's, three
17 nay's, Mr. Chair.

18 CHAIRMAN BERUFF: Very good. Then the
19 revision is adopted and shall be submitted to
20 the Secretary of State to be placed on the
21 ballot November 6th, 2018, in the general
22 election.

23 And now, Commissioner -- Commissioner
24 Thurlow-Lippisch is recognized.

25 COMMISSIONER THURLOW-LIPPISCH: This is
FOR THE RECORD REPORTING, INC. 850.222.5491

1 work -- it works? Do I have your permission to
2 pass out my next set of shells?

3 CHAIRMAN BERUFF: As long as we keep
4 moving along while you're doing it, we're good.

5 COMMISSIONER THURLOW-LIPPISCH: Thank you.
6 And if you turn them over, you can use them as
7 an ashtray. Just kidding.

8 CHAIRMAN BERUFF: It's a two-fer. You got
9 Commissioner Carlton praying here.

10 Commissioner Carlton would like to open
11 the board for any of those folks that would
12 like to sponsor -- now that I finally got the
13 nomenclature correct -- sponsor Revision No. 4.

14 Okay. Move on to Revision No. 5.
15 Commissioner Heuchan, would you like to open up
16 with Revision 5? Thank you so much.

17 COMMISSIONER HEUCHAN: Yes, sir,
18 Mr. Chairman. Thank you so much.

19 Revision No. 5, which is in the form of
20 PCP 6005, it includes the substance of Proposal
21 9, Proposal 26, Proposal 13, and Proposal 103.
22 We had kind of dubbed this the moniker of a
23 government operation/government structure, and
24 in fact, the title reads "State and Local
25 Government Structure and Operation." The

1 proposal that make up -- the proposals that
2 make up Revision 5 all have to do with the
3 structure and operation of state and local
4 government.

5 Revision No. 5 considers the election of
6 constitutional officers throughout the state,
7 and Proposal 13, it sets a date in January as
8 the start of the legislative session in
9 even-numbered years, and Proposal 103, which
10 was Speaker Nunez', it requires the Legislature
11 provide for Department of Veterans' Affairs and
12 creates an office of domestic security and
13 counter terrorism, which helps coordinate
14 operations across the structure of our law
15 enforcement. It also -- I'm sorry, in
16 Proposals 9 and 26.

17 Proposal 13 was amended at the request of
18 the sponsor to clarify that counties can put
19 term limits on their officers, but can't change
20 the length of the four-year term.

21 In Proposal 26, we removed the hyphen
22 between the words "counter" and "terrorism."

23 And that are all the amendments, Mr.
24 Chairman. With that, the Revision No. 5 is
25 introduced and explained.

1 CHAIRMAN BERUFF: Thank you.

2 Questions on Revision 5 before we move on
3 to a few of the amendments? Are there
4 questions on Revision 5?

5 I would like to make sure that this time
6 we -- I'm a little bit better in constructing
7 the body here. Let's do the questions now if
8 you have them so when we get back to debate,
9 it's debate and it's not questions and debate.
10 My fault for being a poor steward.

11 So is there any questions on Revision 5?

12 Okay. We are closing questions on
13 Revision 5.

14 COMMISSIONER LEE: No, no.

15 CHAIRMAN BERUFF: Is there -- you have a
16 question on Revision 5, yes, sir.

17 COMMISSIONER LEE: Thank you, Mr. Chair.

18 Commissioner Heuchan, were there -- of any
19 of those amendments that you ticked through
20 there to any of these proposals in this Bundle
21 5, were any of them in your mind substantive?

22 COMMISSIONER HEUCHAN: Well, yes, sir, I
23 think there was maybe -- I mean, they were
24 changes. I mean, they weren't technical like
25 punctuation or things like that, but they

1 weren't -- they weren't certainly not
2 controversial. I mean, they could have been
3 considered technical. And Commissioner Timmann
4 is here. She can answer at least any of the
5 ones on 13 or 26, for that matter.

6 CHAIRMAN BERUFF: Revision 5 is made up of
7 what used to be called 9, 26, 13, and 103, so
8 different Commissioners may be able to answer
9 your questions, Commissioner Lee.

10 COMMISSIONER LEE: So I guess what I would
11 ask is if we can go through any amendments that
12 were done of a sub- -- I noticed that you
13 mentioned that there was a hyphen, okay, we can
14 all agree that's pretty non-substantive. But
15 if there were any substantive amendments done
16 to these, then those proposals have never been
17 voted off this floor before by the required 22
18 votes, and so they're now going to be bundled.

19 Therefore, I would just like to have a
20 conversation about any substantive amendments
21 that may have been done to any of those
22 proposals, 26, 13, 103 or 9, to whoever did
23 those amendments so that we can be informed as
24 to what happened to those proposals in Style
25 and Drafting.

1 COMMISSIONER HEUCHAN: Yes, sir. Mr.
2 Chairman, if you could --

3 CHAIRMAN BERUFF: Is there a specific --
4 is there a specific question to a specific
5 item?

6 COMMISSIONER HEUCHAN: Yeah, Mr. Chairman,
7 if --

8 CHAIRMAN BERUFF: I would like for the
9 Commissioners that sponsored these four
10 proposals that make up 605 to at least get a
11 question that's on point because, otherwise, we
12 are talking about things that we don't know
13 what the question is to what answer.

14 COMMISSIONER HEUCHAN: Well, Mr. Chairman,
15 if I -- I'm sorry.

16 CHAIRMAN BERUFF: Commissioner Heuchan.

17 COMMISSIONER HEUCHAN: Senator Lee, just
18 one second.

19 Mr. Chairman, I appreciate that. I
20 understand where Commissioner -- what he's
21 asking.

22 CHAIRMAN BERUFF: Well, good, as long as
23 you do --

24 COMMISSIONER HEUCHAN: Yes, sir. Look --
25 and President Lee, I do want to have

1 Commissioner Timmann be recognized, but let me
2 tell you, there were only two amendments. One
3 was the hyphen, which you don't care about.
4 The other one you may care about, but it was
5 really more of a clarification.

6 So I can represent to you after
7 Commissioner Timmann is finished, at least in
8 this circumstance, there isn't anything that
9 you already voted for that is substantially
10 different or even minorly different than you
11 already voted for, which I could not say that
12 when we get to some of the other proposals and
13 I'll call that -- call that out for you.

14 But with that, Mr. Chairman, if there's
15 any other questions President Lee has,
16 Commissioner Timmann can answer it.

17 CHAIRMAN BERUFF: Because if there is any
18 substantive, I agree with Commissioner Lee that
19 we should be picking them up.

20 COMMISSIONER HEUCHAN: I totally agree.
21 Absolutely.

22 CHAIRMAN BERUFF: Okay. So there doesn't
23 seem to be any questions that are specific, at
24 least at this point. Is there more questions
25 on Revision 5 before we start taking up

1 amendments?

2 Hearing --

3 COMMISSIONER HEUCHAN: Mr. Chairman?

4 CHAIRMAN BERUFF: Yes.

5 COMMISSIONER HEUCHAN: I think President
6 Lee was expecting an answer from Commissioner
7 Timmann.

8 CHAIRMAN BERUFF: Okay. Oh, you -- but
9 was there a question?

10 COMMISSIONER HEUCHAN: You seemed
11 satisfied, President.

12 CHAIRMAN BERUFF: I would suggest that we
13 all sit down and let's keep on moving. Okay.
14 Commissioner -- was there -- maybe you can take
15 that up with Commissioner Timmann.

16 Are we ready to go on to Amendment --
17 Commissioner Martinez, if you would like to
18 introduce Amendment 256288. Thank you.

19 COMMISSIONER MARTINEZ: Thank you,
20 Mr. Chair. I am going to -- I have a
21 substitute amendment for that, Mr. Chair.

22 CHAIRMAN BERUFF: Please proceed with your
23 Substitute Amendment 452068.

24 COMMISSIONER MARTINEZ: Correct.

25 All right. So, currently, the charter

1 counties, like Miami-Dade County, can choose to
2 elect or not to elect a constitutional officer.
3 We have that discretion. And in Miami-Dade
4 County, we have a non-elected Sheriff. We have
5 a Chief of the Miami-Dade Police Department.
6 And we like it that way. And that police
7 department has a budget of approximately \$600
8 million.

9 So if this amendment were to be passed as
10 proposed by Commissioner Timmann, what it would
11 do is it would force us in Miami-Dade County --
12 we are the only ones in the state of Florida
13 that has a non-elected Sheriff, I believe. It
14 would force us to give up our right.

15 Right now, we can choose. Right now, we
16 can choose to have an elective Sheriff, and we
17 choose not to. But if we wanted to, we could
18 choose to have one.

19 So what this amendment seeks to do is to
20 have us give up that right, and I don't think
21 that's the right thing to do.

22 I have been living in Miami-Dade County
23 for 58 years. You probably think I'm a little
24 older than that, and I am. And I can tell you
25 that in Miami-Dade County, I have been -- I

1 have had experience there with law enforcement,
2 either working as a prosecutor or in the legal
3 system, and it wasn't all as good as it is
4 right now.

5 In the last several decades, we have had a
6 very professional police department. There
7 have been no scandals, no corruption. Sure, we
8 could do things better, but we have a very good
9 police department, it is very professional.

10 And what you are forcing us to do is by
11 this amendment, Commissioner Timmann, is you
12 are forcing the voters of Miami-Dade County to
13 give up their right to do what they think is
14 best as to how they should govern themselves
15 locally, and I don't think we should be forced
16 to do that. That seems to be unconstitutional.

17 It doesn't seem to be the American way.
18 You are taking away our right for us to decide
19 for ourselves because you're saying the other
20 people in the state of Florida should tell you
21 how to do it and we want you to do it the way
22 we want you to do it, not the way you think it
23 is best for yourselves.

24 So what this amendment does, this
25 amendment says that with regards to Miami-Dade

1 County only as to the position of the Sheriff,
2 that the Miami-Dade County should do as it
3 deems appropriate, elect a Sheriff or not. We
4 haven't abolished the right for the electorates
5 to elect a Sheriff if that's what they want to
6 do. It's just currently that's not the way
7 it's done. So that's what this amendment seeks
8 to do. It seeks to keep in Miami-Dade County
9 that right that the electors currently have.

10 CHAIRMAN BERUFF: We will now take
11 questions on Amendment -- Substitute Amendment
12 452068. Questions on 452068? Any questions?

13 All right. Debate on 452068.

14 Commissioner Nocco is recognized.

15 COMMISSIONER NOCCO: Thank you, Chair.

16 So I am going to -- I should do what
17 Commissioner Coxe said, I'm going to bundle my
18 argument for all these amendments into one for
19 the sake of time.

20 So one thing is, you know, we talk about
21 Miami-Dade and a lot of these amendments, but I
22 am trying to thinking this is for all
23 Floridians. So I think this is more broad than
24 just Miami-Dade. This is an amendment for all
25 Floridians to have the right to vote. They

1 have the right to vote for your -- who's in
2 charge of your property appraisal, who's in
3 charge of collecting your taxes, who's in
4 charge of your public safety, who's in charge
5 of your court records, and who's in charge of
6 your elections.

7 I think that's critical that, you know, we
8 talk -- and we're going to be talking about
9 voters and their rights. Why would we suppress
10 or anybody in the state of Florida the right to
11 vote for these people?

12 The other one is -- now, if we're talking
13 specifically about Miami-Dade, you're
14 absolutely right that in Miami-Dade in 1959,
15 they voted to have an elected Sheriff. It
16 failed. In 1963, it passed. However, in 1966,
17 it was back on again and they said we're going
18 to have an appointed Sheriff, but only 150,000
19 people voted at that time. There's roughly
20 2.6, 2.7 million residents now, and I think
21 having another election on that would be a good
22 idea.

23 The one thing, Commissioner, I would be
24 surprised if no organization did not have a
25 scandal. I think every organization has had a

1 scandal, whether it be appointed people or
2 elected people. I don't think any organization
3 walks on water, and if you gave us a few
4 seconds to Google, I think you would find
5 scandals. Not to say that there's good --
6 great people there, I know good -- great people
7 there. But I think every organization has had
8 scandals. That doesn't matter if they are
9 elected or non-elected.

10 But at the same time is when you have a
11 scandal and there's an elected official, they
12 will -- they all know who to point to. There's
13 no pointing to five Commissioners or seven
14 Commissioners or a County Administrator.
15 They're pointing to one elected official.

16 The other thing that was interesting about
17 Miami-Dade is that it seems like when they got
18 the answer they want, they stuck with it. So
19 the name change -- here's a little history
20 lesson. Everybody knows the change -- name
21 change for Miami-Dade County, but in 1958, to
22 change the name to Miami County, that failed.

23 So they -- it was a select few, I guess,
24 decided they wanted to keep trying again. So
25 in 1963, they tried to change the name to the

1 County of Miami. That failed. So then they
2 said, well, we want to change it now to
3 Miami-Dade County in 1976. That failed. So
4 then a few more said, no, we got to keep
5 pushing this because this issue keeps failing,
6 but, you know, these voters, they keep getting
7 it wrong, they don't understand, this is the
8 right name for it.

9 So, again, in 1984, they said we should
10 change this to Miami-Dade County, what do you
11 all think, and they said no. So, then, what do
12 you think happened? They did it again. So
13 finally in 1997, 45,000 people versus 41,000
14 people in a county of over millions said, you
15 know what, we should change to Miami-Dade
16 County, and they said we got the name we
17 wanted. Do you think they had another vote
18 again? No, because they got the answer they
19 wanted. So now it is Miami-Dade County.

20 I can tell you the Florida PBA, Police
21 Benevolent Association, the women and men on
22 the front line of law enforcement, they stated
23 on numerous occasions they want elected
24 officials as Sheriffs, the head of these
25 organizations. That's across the state of

1 Florida. But in particular, Miami-Dade PBA has
2 said they want an elected Sheriff. The women
3 and men of the organization had said they want
4 an elected Sheriff. They are the ones asking
5 for it. They are the ones who put their lives
6 on the line.

7 The other one is, you listen to
8 Miami-Dade, the women -- I'm sorry, got so many
9 points here, this is unbelievable. I've
10 bundled all, Commissioner Coxe, I bundled all
11 these points together like you said. Now I
12 just keep going in circles. So just keep it
13 going? Okay. Give it back? All right, I'm
14 giving it back.

15 Let me just go back to this one point. As
16 I said, I'm doing it all now so you don't have
17 to hear me later. But this is one point I want
18 to point out.

19 We are so far in the process. And not to
20 say we can't change things now. It is part of
21 the process. But I am going to stand up
22 because Commissioner Timmann is not going to
23 say this, but you know what, she has been one
24 of the most willing partners in any Bill to
25 work with you.

1 If anybody came to her and said, "Hey, can
2 we tweak this, can we tweak that," she's the
3 most open to it. And even right now, even
4 though nobody went to her about these
5 amendments that were filed, she still said,
6 "Hey, you know what, I am going to change this
7 a little bit because it is better for them."
8 This is kind of what they are asking for, even
9 though they never asked her specifically, they
10 just file amendments on there.

11 But let me point this out there.
12 Proposition 13, on October 9th, it was filed.
13 On October 16th, it was sent to a committee.
14 It was in local government on November 1st. If
15 anybody wanted to file amendments, even as
16 courtesy amendments, I can promise you,
17 Commissioner Solari would have done it. In all
18 honesty, Commissioner Solari and I will
19 disagree on this issue.

20 He will probably stand up and speak
21 against it, and I -- in all due respect, I give
22 you -- I commend you for it, because at least I
23 know where you're going to stand on it. And so
24 if anybody wanted to file amendments to it,
25 they could have just went right to him. He

1 would have been the first one, but can I put my
2 name on this? He was for it, but at least I
3 give you -- you know -- I know where you're
4 going to stand on this issue.

5 Again, on December 13th, it was in ethics,
6 nothing there. Now, all of a sudden, the last
7 time we were up here in March, there were no
8 amendments filed. But at the last minute, we
9 are going to start filing amendments. And I
10 will say, you know, these are substantial
11 changes to a Bill.

12 And if we're going to be doing these
13 things, I think we should have been working
14 with the sponsor of the Bill, and she is
15 willing to work with others.

16 So I will say this in closing: You know,
17 this is an important issue, there is no doubt
18 about it. We are allowing voters across the
19 state to vote for elected officials who have a
20 dramatic and direct impact on their lives. I
21 can tell you I was a police officer and I was a
22 deputy sheriff on the front lines. I can
23 answer questions as to what the differences
24 are, how they are, but I can tell you in the
25 Sheriff's Office, there is a feeling that

1 people have that say if they want something
2 done, they know I vote for you every four
3 years, I vote you in, I can vote you out. They
4 know that.

5 Police Chiefs, the expectancy is three
6 years to be in office. That's the national
7 average. Sheriff, they get terms, just like
8 Judges, just like County Commissioners, just
9 like everybody else.

10 If I am fighting for an issue, I can go to
11 the County Commission, and you know what, we're
12 on the same page. We're on the same even,
13 level playing field.

14 As a Chief, a Chief has a much more
15 difficult job because if they are fighting for
16 something, they are fighting for equipment,
17 they are fighting for salaries, they are
18 fighting for any vehicles, better vehicles,
19 they have to go to the City Manager, and the
20 City Manager can say "Don't bring that up, not
21 a good idea, you are not bringing that up."

22 Who is the voice for those officers out on
23 that street? I'm telling you, they have
24 difficult jobs, they have a great job, and we
25 have great partnerships with our Chiefs of

1 Police and our police officers, but I can tell
2 you, if we are disintegrating the role of
3 sheriffs in the state -- and, honestly, this is
4 about all 67 counties, not just one. If we
5 start disintegrating the sheriff or any other
6 constitutional officer, then eventually in each
7 county, there's only going to be one person,
8 one person in charge of everything, and that is
9 how they get dictatorship.

10 CHAIRMAN BERUFF: Debate? Any further
11 debate?

12 Commissioner Timmann.

13 COMMISSIONER TIMMANN: Thank you, Mr.
14 Chairman.

15 I really can't add a lot to the role of
16 the sheriffs. I had planned to, but I think
17 you have covered it amazingly well.

18 I did want to add one other point.
19 Commissioner Nocco mentioned that the proud
20 members of the PBA, the officers really out
21 there on the field support this, but I wanted
22 to add something else. I mean, today I
23 received a copy of a very recent poll that
24 showed that 76 percent of the individuals in
25 Miami-Dade want to elect their sheriff and

1 their property appraiser.

2 Those are the first two questions asked,
3 those are the only ones as far as I know, but I
4 am sure it would go on and continue down that
5 path. 86 percent of Floridians. How can you
6 argue with that?

7 I think these strong arguments we're
8 beginning to hear, I think the root of that is
9 pretty obvious. These officials -- the current
10 officials in power don't want to hear the voice
11 of the governed. They just want to govern
12 them. They don't want to hear their voices.

13 And that's really what this is all about.
14 I think it is pretty clear. There's nothing
15 wrong with asking them directly if they want to
16 vote. They clearly want to vote. And I think
17 that is a role that we can play on their
18 behalf. I think it's a very important role.

19 I do want to add, too, that, you know, I
20 kind of asked a number of Commissioners across
21 the state, and constitutional officers and
22 sheriffs, I've had the chance to meet many of
23 them, and I said why do you think this is,
24 particularly with the sheriffs, what's the
25 problem here.

1 And the answer was the sheriffs are more
2 popular in our communities than we are, and,
3 therefore, they can go directly to the people
4 and talk to them about their needs for the
5 community. How do they handle public safety?
6 What equipment and training do they need? We
7 don't want them to do that because then we
8 can't control all of those things. I think
9 that sums it up. And you could go on with
10 every other one of the constitutional officers.

11 So Sheriff Nocco, Commissioner Nocco,
12 thank you for all your points about the
13 sheriffs and the other constitutional officers.

14 I will be asking you to vote no on every
15 single one of Commissioner Martinez'
16 amendments. As Commissioner Nocco mentioned,
17 as we get to it, I think it's one of the last
18 ones, and also against Commissioner Smith's and
19 Commissioner Gamez' amendments.

20 What I propose here you'll see is a
21 late-filed -- I don't want to jump ahead of
22 myself, but just so you can have it in your
23 head -- is to allow Miami-Dade and Broward four
24 additional years to figure out how they handle
25 the finances, how they handle the structure.

1 That seems to be the biggest argument they were
2 making in the beginning, they need more time,
3 they're very complex. I personally don't think
4 they are. I don't think it's going to be as
5 difficult as they assume that it is, but I am
6 willing to do this. Sheriff Nocco has
7 co-sponsored it with me, and I think it answers
8 most of their points.

9 So, again, I will be asking you to vote no
10 on every one of Commissioner Martinez'
11 well-intentioned amendments, and hopefully we
12 can narrow debate by the points that we've
13 already raised here. Thank you.

14 CHAIRMAN BERUFF: Commissioner
15 Kruppenbacher.

16 COMMISSIONER KRUPPENBACHER: I wanted to
17 make sure that we get a verbatim transcript of
18 the sheriff's presentation so that Commissioner
19 Coxe can study how to do a presentation.

20 CHAIRMAN BERUFF: Okay. Anymore -- look,
21 the Chair takes exception to the jokes that he
22 cannot hear.

23 Okay. Any more debate on Amendment --
24 Substitute Amendment 452068?

25 If there isn't any, we will let

1 Commissioner Martinez close on Amendment
2 452068.

3 COMMISSIONER MARTINEZ: Thank you,
4 Mr. Chair.

5 Let me address a couple of things that
6 Sheriff Nocco -- Commissioner Nocco said,
7 because I think there might be a misconception.

8 First of all, my amendment says that
9 Commissioner Timmann's amendment applies to the
10 rest of the state, but not to Miami-Dade County
11 as to the position of sheriff. Okay, I want to
12 make sure that everybody hears that.

13 My amendment says that the rest of the
14 state can follow Commissioner Timmann's
15 amendment, but in Miami-Dade County, we want to
16 select a sheriff the way we do it, which is
17 either by electing a sheriff, by having the
18 sheriff appointed.

19 In Miami-Dade County now, if the people
20 want to have an elected sheriff, they can do it
21 one of three ways: They can petition the
22 Commission to allow an election, they can do a
23 citizens' initiative to allow an election, or
24 the Charter Review Commission can order -- can
25 suggest an election that will be approved then

1 by the Commission. So there are ways of which
2 we can do it.

3 If, in fact, the people of Miami-Dade
4 County are so convinced that they want an
5 elected sheriff, as your polls seem to
6 indicate, well, you know what, there's a
7 process already in place for them to initiate
8 that process so that they can elect a sheriff.

9 But what I heard here today is that this
10 isn't really about the people in Miami-Dade
11 County. It appears to be apparently several
12 unions, police union, maybe statewide union, a
13 state sheriff's association, that has an
14 interest in having in Miami-Dade County an
15 elected sheriff. I think that's apparently
16 what's happening here today.

17 Certain powers that be outside of
18 Miami-Dade County and certain unions want to
19 tell the electors of Miami-Dade County, this is
20 how you should be governed. Give up your right
21 for self-determination. Give up your right for
22 self-determination. You cannot have it the way
23 you have it right now, which is you can elect
24 one or you can appoint one.

25 Apparently the State Sheriff's Association

1 and the State Police Union want to dictate to
2 us the way we should govern ourselves. And
3 that's why my amendment says leave us alone, we
4 know how to govern ourselves. We can elect our
5 sheriff or we can have it an appointed the way
6 it is right now.

7 So I would ask that you please support my
8 amendment and to let Miami-Dade County -- the
9 electors of Miami-Dade County choose for
10 themselves how they should be governed with
11 regards to a sheriff -- with regards to the
12 sheriff. Thank you.

13 CHAIRMAN BERUFF: Okay. Now we're going
14 to vote on Substitute Amendment 452068. All
15 those in favor of the amendment, signify by
16 saying yea.

17 (Chorus of yea's.)

18 CHAIRMAN BERUFF: All those against,
19 signify by saying nay.

20 (Chorus of nay's.)

21 CHAIRMAN BERUFF: The motion -- or
22 Amendment 452068 fails.

23 Commissioner Martinez, how would you like
24 to proceed with 256288? Would you like to
25 withdraw that?

1 COMMISSIONER MARTINEZ: Going down the
2 line here, I will TP that.

3 CHAIRMAN BERUFF: Okay, sir. Thank you.
4 So now we're going to go to Amendment
5 395060.

6 COMMISSIONER MARTINEZ: And I will TP that
7 -- I will TP that as well.

8 CHAIRMAN BERUFF: Okay. And 642280?

9 COMMISSIONER MARTINEZ: There's a
10 substitute amendment for that, which is 597 --

11 CHAIRMAN BERUFF: That was withdrawn.

12 COMMISSIONER MARTINEZ: No, the one over
13 it.

14 CHAIRMAN BERUFF: I'm sorry, the second
15 one. 597334.

16 COMMISSIONER MARTINEZ: Correct.

17 CHAIRMAN BERUFF: Substitute Amendment
18 597334?

19 COMMISSIONER MARTINEZ: Right. That's
20 correct.

21 CHAIRMAN BERUFF: Would you like to
22 present that?

23 COMMISSIONER MARTINEZ: I will be brief.

24 And this one, what this does is this
25 amends out of Commissioner Timmann's proposed

1 amendment, Miami-Dade County; again, so that
2 Miami-Dade County can select for itself the way
3 it should govern itself, so that it can
4 determine for itself how it should govern
5 itself. That's what this amendment seeks to do
6 with regards to all constitutional officers.

7 CHAIRMAN BERUFF: Okay. Questions on
8 Substitute Amendment 597334? Questions on
9 597334?

10 Debate on 597334?

11 Commissioner Martinez, would you like to
12 close on 597334?

13 COMMISSIONER MARTINEZ: I will waive.

14 CHAIRMAN BERUFF: Thank you.

15 Okay. All those in favor of Amendment
16 597334, signify by saying yea.

17 All those against, signify by saying nay.

18 (Chorus of nay's.)

19 CHAIRMAN BERUFF: Amendment 497334 fails.

20 Commissioner Smith, would you like to
21 introduce Amendment 102168, please?

22 COMMISSIONER SMITH: Thank you, Mr. Chair.

23 I would associate myself with Commissioner
24 Martinez' comments and just talk about the
25 greatness of the State of Florida. Our

1 greatness is our diversity. We have beautiful
2 North Florida, Central Florida, the east coast,
3 the west coast. We have a very diverse state,
4 and on a lot of things, we can't do one size
5 fits all.

6 Broward County is unique in that we do not
7 have an elected Tax Collector. And when you
8 talk about polling and what polls all around
9 the state, I've done some polling myself since
10 this issue has really come up walking around
11 Broward County. I couldn't find one with
12 person to tell me what a Tax Collector does.

13 So I would guess if you polled Broward
14 County and you asked Broward County, hey, do
15 you want an elected Tax Collector, you're not
16 going to get a high number of voting, you're
17 not going to get the 80 percent voting,
18 whatever, because we haven't had one, we don't
19 need one, we don't know what one is.

20 So if this fails, what you are basically
21 going to be saying is the rest of the state,
22 the rest of Florida, tell Broward you have to
23 create more government, you have to create big
24 government.

25 I am trying to send you -- I know some of

1 you on the political spectrum, I'm trying to
2 see a signal. You're telling Broward County
3 create big government, create more government,
4 create more bureaucracy.

5 Now, I've served in this chamber for a
6 lot, and that argument never seemed to work in
7 this chamber, creating more government and big
8 government. And so I am giving you an
9 opportunity to stand up for your principles,
10 stand up for what you believe in, and stand up
11 for less government and allow Broward County to
12 continue the way it's been doing it for decades
13 and not have to create more big government in
14 Broward County by exempting out Broward County
15 from having to create another big governmental
16 bureaucracy of Tax Collector. And that is my
17 amendment, sir.

18 CHAIRMAN BERUFF: That was the most
19 passionate introduction today.

20 All right. So, unfortunately, since you
21 guys know I am a novice at this, we have to go
22 back on six -- Amendment 642280 and we have to
23 -- we have to vote that one.

24 We recognize Commissioner Martinez on
25 642280. What are we doing with that,

1 Commissioner? Are you tabling that?

2 CHAIRMAN BERUFF: Yes, I believe so too.

3 COMMISSIONER MARTINEZ: Mr. Chair, I
4 withdraw it.

5 CHAIRMAN BERUFF: Thank you. That makes
6 it simple.

7 Now we go on to questions in Amendment
8 102168 by Commissioner Smith.

9 Commissioner Rouson is recognized.

10 COMMISSIONER ROUSON: Thank you very much,
11 Mr. Chair.

12 Commissioner Smith, with all due respect,
13 your amendment allows for little bitty
14 government, but does it also allow for more
15 freedom?

16 CHAIRMAN BERUFF: Commissioner Smith.

17 COMMISSIONER SMITH: It allows for more
18 personal freedom of the people of Broward
19 County to have less government. And I repeat,
20 more personal freedom for the people of Broward
21 County to have less government.

22 CHAIRMAN BERUFF: Okay. More questions on
23 102168? Questions on 102168?

24 We shall go to debate on 102168.

25 Commissioner Solari is recognized.

1 COMMISSIONER SOLARI: Commissioner Smith,
2 I want to point out a mistake that you make
3 that a lots of people of your party make. It's
4 actually not less government. It's limited
5 government. And after the Commission adjourns,
6 I would be happy to explain the difference.

7 CHAIRMAN BERUFF: All right. Any more
8 debate on 102168? Commissioner Timmann is
9 recognized.

10 COMMISSIONER TIMMANN: Commissioner Smith,
11 we just want to give you the opportunity to
12 know the name of your Tax Collector. Thank
13 you.

14 CHAIRMAN BERUFF: Further debate? I don't
15 see any debate.

16 Commissioner Smith, would you like to
17 close on your proposal?

18 COMMISSIONER SMITH: Yes, sir, and
19 briefly, I just want to give the people of
20 Broward County the personal freedom to have
21 limited government, thus causing less taxes in
22 Broward County. Thank you.

23 CHAIRMAN BERUFF: I think in politics they
24 say tell them, tell them, and tell them again.

25 Okay. By voice vote, all those in favor

1 of Amendment 102168, signify by saying yea.

2 (Chorus of yea's.)

3 CHAIRMAN BERUFF: All those against it, by
4 saying nay.

5 (Chorus of nay's.)

6 CHAIRMAN BERUFF: The nay's have it.
7 Amendment 102168 fails.

8 Would you like to introduce your Amendment
9 946146, Commissioner Smith?

10 COMMISSIONER SMITH: Thank you, Mr. Chair.

11 I think a few people didn't hear those key
12 words last time. So this is a second bite at
13 the apple to give the people of Broward County
14 more personal freedom to have limited
15 government, thus causing less taxes. That is
16 the amendment, sir.

17 CHAIRMAN BERUFF: I just want to
18 congratulate you on the good listening that you
19 do for your Commissioner right behind you.

20 All right. We're now taking questions on
21 946146. Questions? No questions?

22 Debate. 946146, debate.

23 No debate. Would you like to close,
24 Commissioner Smith?

25 COMMISSIONER SMITH: Waive close.

1 CHAIRMAN BERUFF: Waive close.

2 All those in favor of 946146, signify by
3 saying yea.

4 All those against, by saying nay.

5 (Chorus of nay's.)

6 CHAIRMAN BERUFF: 946146 fails. Moving
7 down to 273906. Commissioner Martinez, would
8 you like to present 273906?

9 COMMISSIONER MARTINEZ: Mr. Chairman, I TP
10 it for the time being.

11 CHAIRMAN BERUFF: Okay. Commissioner
12 Gamez, would you like to present 579948?

13 COMMISSIONER GAMEZ: Thank you, Chair.

14 So contrary to all the other amendments
15 that we've discussed, this is not actually
16 affecting the proposal itself, but, rather, the
17 summary for Revision 5.

18 So -- and this is something that for those
19 that did not follow our Style and Drafting
20 Committee, I did bring up these issues while we
21 were in Style and Drafting, so I will be
22 consistent. I am going to bring them to the
23 full Commission now.

24 This one is slightly different than the
25 one that I brought on the floor of Style and

1 Drafting. This basically -- the language here,
2 so there is consistency, it starts off with
3 "requires Legislature to retain Department of
4 Veterans' Affairs." So the second sentence,
5 instead of stating "ensures," which I think is
6 somewhat biased and influenced as an outcome, I
7 have changed it to put "requires election of
8 Sheriffs, Property Appraisers, Supervisors of
9 Elections," et cetera.

10 In the second part, I've also clarified
11 here that it states "removes electors of
12 charter counties right to abolish." I think
13 that the existing language in the summary is
14 somewhat confusing. So I wanted to be sure
15 that it was clear that it's removing the
16 elector's right and not the charter county, and
17 although I know that we had some debate as to
18 the semantics as to those terms, I just want it
19 to be clear.

20 This does comply with the word count. So
21 there are some other minor changes here from
22 the original ballot summary, just to make sure
23 that we are within the word count, but
24 essentially those are the biggest changes. It
25 changes the word "ensures election" to

1 "requires," and then, again, it stresses that
2 it is removing the electors of the charter
3 county's right so that it's a little bit
4 clearer in the summary.

5 CHAIRMAN BERUFF: Thank you.

6 Questions on 579948? Do we have questions
7 on Amendment 579948?

8 Commissioner Martinez is recognized.

9 COMMISSIONER MARTINEZ: Commissioner
10 Gamez, I just want to make sure that the record
11 reflects what you are trying to do.

12 If you go to the actual Constitution and
13 the amendment, behind Tab 5, Revision 5, all
14 the way at the bottom, Line 148, it states
15 there in the last clause, "except when provided
16 by county charter or special law approved by
17 vote of the electors of the county." Do you
18 see that?

19 COMMISSIONER GAMEZ: Yes.

20 COMMISSIONER MARTINEZ: Is that the reason
21 why you wanted the word "electors" to be
22 included in the -- in the summary?

23 COMMISSIONER GAMEZ: That is correct,
24 Commissioner Martinez. I just wanted to be
25 clear here that we're talking about the

1 electors as it states in the actual proposed
2 Constitutional Amendment so it is clear also in
3 the summary that that's its -- its impact.

4 CHAIRMAN BERUFF: Any debate?

5 Commissioner Timmann, you are recognized.

6 COMMISSIONER TIMMANN: Thank you.

7 I think we've all heard today how much
8 work has gone into all of these proposals and
9 ballot summaries. You've heard that I did do
10 some work on them in the committee. However,
11 this was not even the language that I would
12 have -- I would have said something more like
13 "prevent your county from taking away your
14 right to vote for all of these." There's a lot
15 of different language that could have been
16 used.

17 I decided on my own not to file any
18 amendments on the ballot summaries or the
19 titles on any of my proposals because I feel
20 that we should all honor the hard work of the
21 Style and Drafting Committee, and especially
22 the advice of our outside counsel.

23 I would have said something like
24 prevent -- even actually on my proposal about
25 veterans, I would have made that language a

1 little bit stronger to talk about their service
2 and how we are protecting and recognizing that.
3 But I am going by -- with what our outside
4 counsel advised.

5 I would like to read -- you know, a little
6 bit came up about back and forth on this
7 proposal on whether -- because I expect this to
8 come up next -- on what kind of grouping or
9 does this accurately reflect everything, and I
10 want to read a quote because the only ones, as
11 actually Commissioner Martinez referred to a
12 couple of times, who really got involved in
13 this at the end were the lobbyists.

14 And one stood up in front of Style and
15 Drafting at the first committee meeting, and
16 this is what she said: "I would like to
17 suggest, first of all, that when you are
18 looking at the grouping, it may be more
19 appropriate to group Proposal 13 with the
20 government structure because most of the issues
21 that would be addressed with the proposal have
22 to do with the structure of local government.
23 Really, half the problem or the issue would be
24 with the electorate. The other half would be
25 with how local governments are structured."

1 And that's where this proposal is. That's
2 how it was grouped. The ballot summary, I
3 believe, is accurate and not misleading.

4 I would also like to add that very
5 recently just this past week, I was very
6 distressed to receive a mass e-mail from a
7 group called Keep It Local Florida. It was the
8 Association of Counties. Unbelievably
9 misleading. It was very upsetting. I took a
10 step back, and there were these huge buttons on
11 this where you could say "oppose" or "support."

12 And the title was "The devil's in the
13 details." Very dramatic, this is going to
14 take -- it's going to destroy the world, this
15 proposal.

16 So I pushed on the "support" button to say
17 I support this proposal. I got dead air. It
18 said "Thank you." I pushed on the "oppose"
19 button, and it had this big place where I can
20 write all these reasons about why I can oppose
21 it with direct links that it will e-mail every
22 one of us. And that's what this is all about.

23 That's the same attempt that we are seeing
24 to really quash the votes, quash the voices of
25 the public and of the voters. They didn't even

1 want anyone's input, honest input, on their
2 proposal unless it was exactly what they wanted
3 to hear.

4 Back to Commissioner Nocco's point. They
5 will keep putting it on there until they get
6 the answer that they want.

7 I'm asking you to oppose this amendment,
8 and I believe there's another one directly
9 after it and similar. Thank you.

10 CHAIRMAN BERUFF: Further debate?

11 Commissioner Gamez, you are recognized to
12 close on your amendment.

13 COMMISSIONER GAMEZ: Thank you, Mr. Chair.

14 And, again, I am not seeking to prevent
15 the voters of Miami-Dade County or any other
16 county in the State of Florida to not vote on
17 this particular amendment. I am simply asking
18 that the proposal -- the ballot summary be
19 clear on its intent.

20 I think that the word "ensures" is
21 somewhat misleading and it's outcome driven.
22 I'm asking that there's consistency with the
23 language. It starts off with "requires
24 Legislature." I'm asking that the same thing
25 follow immediately thereafter, "requires

1 election of Sheriffs." There's nothing
2 different between the two, ensure, require. I
3 just think it is a language choice.

4 And, again, I think the second part of
5 that after the semicolon, I want it to be clear
6 that you -- it goes to the electors and not the
7 charter county, and that the language should be
8 clear. I am not asking that this doesn't go to
9 the voters. I haven't interfered with the
10 actual amendment and the proposal itself.

11 Again, this just simply goes to the
12 summary itself. I want it to be clear so that
13 there's no ambiguity as to what this intends to
14 do. And, yes, there is another proposal that
15 follows this. I will likely be withdrawing the
16 next amendment. So it really is this one.

17 So I ask that you to consider supporting
18 this simple amendment that just makes it clear
19 and is a little bit more fair and balanced in
20 what the intent of this proposal does. Thank
21 you.

22 CHAIRMAN BERUFF: Thank you, Commissioner
23 Gamez.

24 Having closed on 579948, all those in
25 favor of the amendment, please signify by

1 saying aye.

2 (Chorus of aye's.)

3 CHAIRMAN BERUFF: All those opposed?

4 (Chorus of nay's.)

5 CHAIRMAN BERUFF: The amendment is not
6 adopted.

7 Commissioner Gamez, you are recognized to
8 explain 780040.

9 COMMISSIONER GAMEZ: I withdraw this
10 particular amendment. Thank you.

11 CHAIRMAN BERUFF: Thank you, Commissioner
12 Gamez.

13 Commissioner Timmann and Nocco, you are
14 recognized -- well, Amendment 544490 is a
15 late-filed amendment. All those in favor of
16 introducing the late-filed amendment, please
17 signify by saying aye.

18 (Chorus of aye's.)

19 CHAIRMAN BERUFF: All those opposed,
20 please say nay.

21 Okay. Show the amendment considered.

22 Commissioner Timmann, you are recognized
23 to explain Amendment 544490.

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

1 As I mentioned when we began this
2 discussion on this proposal, this particular
3 amendment provides and allows additional time
4 for Miami-Dade and Broward County to adjust to
5 any structural or operational changes.

6 This came about because there was concern
7 expressed by a number within the government
8 that this may be an arduous process and
9 involve -- I don't believe that it is, and I
10 know that there's profession until associations
11 out there that will help them every single step
12 of the way, but this does just simply give them
13 an additional four years to actually adjust to
14 all of these changes, just Miami-Dade and
15 Broward County.

16 CHAIRMAN BERUFF: Anything further? So
17 any questions on Amendment 544490? Questions
18 on 544490?

19 Seeing no questions, is there debate on
20 544490? Commissioner Cerio, you are
21 recognized.

22 COMMISSIONER CERIO: I did have a
23 question, Mr. Chair.

24 Commissioner Timmann, can you just explain
25 why not Volusia?

1 CHAIRMAN BERUFF: Commissioner Timmann,
2 you are recognized.

3 COMMISSIONER TIMMANN: Thank you.

4 Miami-Dade and Broward have substantially
5 different, more expansive operational changes
6 within their organization. Volusia has a
7 system where their officers are still existing
8 and elected. However, they report up the chain
9 to appointed County Manager and then on to the
10 Commissioners.

11 So it wouldn't -- the only thing it would
12 really change there substantially is going to
13 be that reporting structure, which is not
14 significant.

15 Miami-Dade and Broward, I understand, it
16 is a little more complex. You heard about the
17 budget. So that's the difference.

18 CHAIRMAN BERUFF: Further questions?

19 Seeing none, debate? Is there debate on
20 544490? Sheriff Nocco, you are recognized.

21 COMMISSIONER NOCCO: As I was -- I was
22 going to lump it all into one; however --
23 actually, you tried very quickly. Cerio asked
24 a question.

25 So really I want to thank Commissioner

1 Timmann, and, honestly, this whole issue came
2 about because over the weekend, the amendments
3 were filed, things had gone through, and so
4 there was questions that came up, so I applaud
5 you for that.

6 And, you know, it is a fact, those are the
7 only two counties that this substantially would
8 make a difference in; however, really not. All
9 you're doing is making directors elected, so
10 kudos for going forward and being a partner for
11 everybody.

12 CHAIRMAN BERUFF: Further debate? Further
13 debate?

14 Seeing none, Commissioner Timmann, you are
15 recognized to close on Amendment 544490.

16 COMMISSIONER TIMMANN: Waive close.

17 CHAIRMAN BERUFF: Waiving close.

18 All those this favor, say yea.

19 (Chorus of yea's.)

20 CHAIRMAN BERUFF: Opposed?

21 Show the amendment adopted. We are now
22 going to go back to Commissioner Martinez' TP'd
23 amendment, 273906. 273906.

24 Commissioner Martinez, you are recognized
25 to explain your amendment.

1 COMMISSIONER MARTINEZ: I think I withdrew
2 these. I think I've withdrawn these.

3 CHAIRMAN BERUFF: You TP'd it.

4 COMMISSIONER MARTINEZ: Which one is --
5 which --

6 CHAIRMAN BERUFF: 273906.

7 COMMISSIONER MARTINEZ: Two, seven -- oh,
8 yes, I want to -- I'm going to withdraw it.

9 CHAIRMAN BERUFF: Okay. Show that
10 withdrawn.

11 So we are now in questions -- in debate on
12 the proposal as amended -- in debate on the
13 proposals amended. Is there debate?

14 Commissioner Gaetz, you are recognized.

15 COMMISSIONER GAETZ: Thank you very much,
16 Mr. Chairman.

17 I want to thank Commissioner Timmann and
18 Sheriff Nocco for bringing this issue to us. I
19 know it has been contentious and difficult
20 because it does crack some rice bowls, and I
21 believe that you've gone a long way toward
22 accommodating some of the concerns that have
23 come from our far southern counties.

24 I wanted to bring you a message from the
25 Panhandle of Florida. I've heard from county

1 officers throughout the Panhandle, local
2 officials there who deal with these issues
3 every day, and to a person, they are asking me
4 to continue to do what I've done in committee
5 and on this floor, and that is to support your
6 initiative.

7 So I want you to know that there is
8 substantial support, not just on the part of
9 constitutional officers, but also on the part
10 of many County Commissioners from throughout
11 Northwest Florida.

12 I appreciate what you have done. I thank
13 you for giving the people of Florida the
14 opportunity to -- to make a decision about
15 whether they want to elect or appoint
16 constitutional officers. I've always believed
17 in the maxim, "Trust the people," and I believe
18 that in this case, your trust will not be
19 poorly placed. I believe that your proposal
20 would be enacted by the people of Florida and
21 would be part of the Constitution and give us a
22 far more democratic and participatory local
23 government.

24 So I appreciate it and I encourage my
25 fellow Commissioners to support this good

1 proposal.

2 CHAIRMAN BERUFF: Thank you, Commissioner
3 Gaetz.

4 Further debate on Proposal 6005 as
5 amended? Further debate?

6 Commissioner Heuchan.

7 COMMISSIONER HEUCHAN: Thank you, Mr.
8 Chairman.

9 I wanted to stand and just lend my voice
10 of support for Proposal No. 103, which has been
11 not talked about very much, but I consider it
12 to be one of, if not the most pro-family thing
13 that we're doing. So Commissioner Nunez and
14 Sprowls and Peppy and everybody else who -- who
15 has to endure the Legislature in the spring and
16 early parts of the summer, this will allow
17 people that get -- that have to work here to
18 enjoy their families over spring break. And
19 I'm serious, it is a -- it is a big thing. So
20 I thank you for that.

21 CHAIRMAN BERUFF: Commissioner Gamez is
22 recognized.

23 COMMISSIONER GAMEZ: Thank you, Mr. Chair.

24 I move to take Revision 5, Proposal 6005,
25 from the calendar and refer it to the Style and

1 Drafting Committee for the specific purpose of
2 removing the substance of Proposal 13 from
3 Revision 5 and placing it in its own revision
4 for consideration for placement on the ballot.

5 So we've all heard Commissioner Martinez
6 go through some of these similar motions
7 throughout this day, and this one in particular
8 is a very specific direction to Style and
9 Drafting. It is to take Proposal 13 and make
10 it a stand-alone, as we have other stand-alone
11 amendments that will follow and that we will
12 discuss later on.

13 This is something, again, I had brought up
14 in Style and Drafting while we were meeting in
15 the committee. I had opposed this particular
16 grouping. I think that there's a lot of
17 different things that have been grouped
18 together here. Talking about germanity and
19 relevance, I don't think that they all flow
20 together.

21 This bundles -- as you heard Chair Heuchan
22 mention earlier, this bundles things that
23 matter relating to Article III, which is the
24 Legislature, IV, which is the Executive, and
25 VIII, which is the local government.

1 As you can tell by the discussion that has
2 gone on with all of the proposed amendments,
3 they have all dealt with Proposal 13. They
4 haven't discussed any of these other proposals
5 that have now all been bundled to Revision 5.

6 This Proposal 13 has a major, substantive
7 impact on local governance, and it is important
8 that this particular proposal stand and fall on
9 its own. Commissioner Gaetz had asked of
10 Commissioner Martinez earlier this morning
11 there was something really egregious that he
12 wanted us to discuss and consider, and I know
13 he had mentioned 3 and 5, and really it's just
14 taking out this specific proposal, not
15 unbundling the whole thing.

16 I think that the other ones really have
17 limited impact, you know, again. So the date
18 for when the legislators will come to
19 Tallahassee, creating the -- retaining the
20 Department of Veterans' Affairs and creating
21 this Office of Domestic Security and
22 Counterterrorism, all those things I'm sure
23 most people are going to want. They all sound
24 terrific. They're not really major changes
25 that are going to impact the form of local

1 government.

2 Although this is titled "Government
3 Operations Structure," again, I think that this
4 particular proposal has a lot of controversy
5 that follows it, but it does impact mainly
6 Miami-Dade and Broward County because those are
7 charter counties. It should stand and fall on
8 its own.

9 I think that this particular proposal will
10 impact how people will vote up or down for this
11 particular proposal, and I think that the
12 electors all over the state should have the
13 opportunity to vote for this particular
14 proposal on its own.

15 So that is my motion. I am just asking
16 that Revision 5 go back to Style and Drafting
17 in particular just to remove Proposal 13 from
18 this group and let it be a stand-alone
19 amendment.

20 CHAIRMAN BERUFF: Debate on Commissioner
21 Gamez' motion?

22 Commissioner Schifino is recognized.

23 COMMISSIONER SCHIFINO: I support
24 Commissioner Gamez' motion for a very different
25 reason than she would expect, and that is that

1 when I look back at my vote history, I voted
2 no, with all due respect to my friends over
3 here to my left, on P-9, Department of
4 Veterans' Affairs, and I voted no on P-26. And
5 the reason I did was because I think we've
6 already taken care of those in our Constitution
7 and by statute.

8 One of the issues we have seen repeatedly
9 and read about or talked about are the numbers
10 of proposals we have which are the feel-good
11 proposals which let's make a statement, and I
12 won't spend much time on those.

13 So the reason I am supporting your motion
14 is because I did vote yes on P-13. I do
15 believe that P-13 is not sufficiently related
16 to these other three. I would pull it out. I
17 would continue to support it, and it would
18 allow me to vote independently on how I feel
19 personally about P-9, P-26.

20 And for the life of me, I cannot remember
21 how I voted on P-103. Was I an up? Okay, I
22 was an up. But it was late in the day, I
23 remember.

24 Thank you very much, Chairman.

25 CHAIRMAN BERUFF: Debate on the motion?

1 Further debate on the motion?

2 Commissioner Lee is recognized.

3 COMMISSIONER LEE: Well, thank you,
4 Mr. Chair.

5 I, too, am going to rise in support and
6 just say how clever I think this idea is. I
7 think we -- we have -- we have had plenty of
8 debate and I think a fair amount of empathy
9 towards some of the bundling and the challenges
10 that Style and Drafting faces in trying to
11 manage the ballot and the ballot summaries and
12 try to relate proposals together.

13 And -- and this Grouping No. 5, to me, was
14 the most disparate of all of the proposals, and
15 yet you could argue that no one really cares
16 when the Legislature meets except the
17 Legislature, who cares deeply when it meets, so
18 that is -- that is non-controversial.

19 And as was pointed out by Chair --
20 Commissioner Schifino, these other two issues
21 in here are -- are -- you know, they are
22 essentially already done, and so they are
23 non-controversial as well.

24 It's this one piece that has really been
25 controversial to this body, and it may be that

1 it makes the most sense since we are obviously
2 not going to get back into this con- -- a
3 conversation about whether we should bundle or
4 not bundle. I think that ship has sailed. But
5 at least when we run into a bundle of proposals
6 where one item is sticking out like a sore
7 thumb, if you will, that maybe that is the
8 right pressure point at which to kind of thread
9 that needle between how our rules have allowed
10 us to bundle and what Commissioner Martinez has
11 said on the record. And so I'm going to
12 support this.

13 CHAIRMAN BERUFF: Commissioner Donalds is
14 recognized.

15 COMMISSIONER DONALDS: Thank you.

16 I respectfully disagree with the motion
17 and cannot support it. I think -- going back
18 to the process that we've been through leading
19 us to this point, some of these what I'll call
20 smaller and perhaps less significant proposals
21 that move through the process, I know in my
22 mind, I thought, well, this is something that
23 can be paired with something else.

24 We have a few that are very significant
25 that these others are kind of attached to

1 because I wouldn't necessarily support some of
2 these measures that are probably unnecessary,
3 but maybe a value base, as we talked about
4 before, being its own on the ballot, but if it
5 is paired with something else that is
6 significant like Proposal 13, I could support
7 them going forward together.

8 So I worry that this direction is actually
9 going to hinder some of these perhaps not as
10 significant proposals that are paired up with
11 more significant proposals from being able to
12 move forward on their own. So I think changing
13 that now and saying, well, let's take the
14 significant ones out by themselves and try to
15 have these not as significant ones hang out by
16 themselves, well, then, you are going to see
17 some of those fall off where as going through
18 this process many of us thought, I'm good with
19 this one so long as it's going to be paired
20 with other things that are going to kind of
21 carry.

22 And I would see Proposal 13 as kind of the
23 main meat of this proposal, and although I do
24 support the others, I'm not sure that when we
25 talk about ballot size, that those would

1 maintain their support if they are not grouped
2 together as we all thought they would be at
3 this point. So I would ask for you to vote
4 against this motion.

5 CHAIRMAN BERUFF: Commissioner Keiser.

6 COMMISSIONER KEISER: Thank you,
7 Mr. Chair.

8 Fellow commissioners, what I truly believe
9 as we make these decisions, the question truly
10 rests in this process of is -- are the
11 proposals at hand related and relevant in some
12 way. And if you look at this particular title,
13 and not whether I voted for one or the other or
14 whether one is more controversial in my mind
15 than another, because to some extent, I do
16 believe that's subjective.

17 And so if you look at this particular
18 proposal, "State and Local Government Structure
19 and Operation," the proposal that I have
20 brought forward, to me is incredibly
21 significant, not minor impact, because if you
22 look at the generational commitment that we
23 need to make to domestic security and counter
24 terrorism, there are, unfortunately, too many
25 examples in our state where we know together

1 that we need to make a general -- generational
2 commitment to this effort.

3 Under the current system, we have eight
4 counter terrorism squads that work with the
5 Florida Department of Law Enforcement. We have
6 seven regional domestic security task forces.
7 It bring together the best with our local
8 Sheriffs, Police Chiefs, and FDLE Special
9 Agents in charge and intelligence and other
10 professionals as needed. Our first responders
11 are also very involved in this.

12 So if you look at infusion centers for the
13 purpose of collaboration, communication and
14 looking at how to prevent and proactively
15 manage the information that is out there and
16 the threats that are upon us, one could argue
17 that we could -- we need to do more.

18 But I would like to say that to veterans,
19 I'm sure that department means a lot to them.
20 And I can tell you as a resident of Parkland,
21 this department and this office means a lot to
22 most of us.

23 So, ladies and gentlemen, as we try to
24 make this decision, let's really focus on the
25 whole group together and what the real test is

1 in terms of whether we de-couple or take
2 something out.

3 I am against sending this back to Style
4 and Drafting. I think that they are relevant.
5 One may be more controversial than another, but
6 please, please keep this in mind. Thank you.

7 CHAIRMAN BERUFF: Commissioner Nocco is
8 recognized.

9 COMMISSIONER NOCCO: Thank you, Chair.

10 Just a couple of points I just want to
11 clarify. One about the controversy of
12 Proposition 13. I don't think it's that
13 controversial. Those that are against it are
14 just very vocal. It won in committee 6 to 1,
15 it won in its second committee 6 to 1, and then
16 it won on the floor 26 to 7. If I am on a
17 team, I'll take those scores every day.

18 The other part is -- and I just -- I
19 always laugh at this when somebody says "in all
20 due respect." In all due respect, I mean, at
21 that point, you had better put your Kevlar on
22 and be ready because it's like that punch is
23 coming, here it comes. No, I'm for you.

24 But I say, this is really -- you don't
25 like the idea, I get it, just say it. I don't

1 like the idea, I'm going to send it back, I'm
2 going to try to kill it. That's all this is.
3 Let's just call it what it is, and in all due
4 respect, no, it is basically I want to send
5 this Bill back to committee to Style and
6 Drafting because I want to try to kill it any
7 way I can. So that's my points. Thank you.

8 CHAIRMAN BERUFF: Commissioner Martinez is
9 recognized.

10 COMMISSIONER MARTINEZ: Thank you,
11 Mr. Chair.

12 I don't think anybody is going to try to
13 kill it because, frankly, I don't think anybody
14 could kill it. I think clearly each one of the
15 proposals within Revision 5 have the votes to
16 go to the voters. That's not going to happen.

17 In Florida, there are people who were born
18 last night, but not everybody in Florida was
19 born last night. And I think people are going
20 to get the impression that we're trying to do
21 something here, we're trying to pull a fast one
22 by them.

23 Your proposal, the proposal dealing with
24 constitutional officers, for your own advocacy,
25 is an extremely important proposal, extremely

1 important proposal. It affects fundamentally
2 the way local government is to be structured.
3 You have said that yourselves, both of you,
4 right? So if it is that fundamental, if the
5 issue is that important, if the idea is that
6 big, separate it. Let it stand or fall on its
7 own merits.

8 If you feel that strongly, if you have all
9 the voters in favor of it, let it go on its
10 own. They will vote for it and it will pass
11 according to your conviction. So believe in
12 your conviction. Let it go out there on its
13 own.

14 Oh, my goodness, don't bundle it. Don't
15 bundle it with others. If there's any a group,
16 if there was a group along with three, Proposal
17 71, this should be de-coupled, it is this one.
18 But what Commissioner Gamez is saying is just
19 take this one out. Keep the group together,
20 but just take this one out, and then bring it
21 back to us and we will go forward to the
22 voters.

23 If you feel that strongly about it, if you
24 think the voters are going to support it, if
25 you believe in that conviction, let it rise or

1 fall on its own. Thank you.

2 CHAIRMAN BERUFF: Commissioner --
3 Commissioner Timmann is recognized.

4 COMMISSIONER TIMMANN: Thank you.

5 I do stand in opposition to the motion.
6 This is about structure, and all of the -- if
7 you look at these proposals -- and I will say
8 the veteran's proposal is mine -- I do believe
9 it is significant. I believe it is significant
10 to the Purple Hearts who stood behind me when I
11 presented it.

12 It is significant to them to have a
13 permanent voice and to know that they have a
14 permanent voice, but I won't keep debating on
15 the veteran's issue.

16 But it is about structure. That's about
17 the structure of that agency. It is about the
18 structure of FDLE when you add in the counter
19 terrorism.

20 My proposal is about the structure. These
21 are all very related, even the legislative one,
22 which, by the way, I didn't realize was about
23 spring break. I thought it was about timing of
24 budgets. That's why I loved it, okay. So,
25 anyway -- okay, budgets. So that's also about

1 the structure of how our Legislature meets.
2 They are all very related.

3 Now, I agree with, you know, the comments
4 that some of the other Commissioners who have
5 spoken in opposition. So, again, I ask you to
6 please oppose this amendment, and we've all
7 done a lot of work on this proposal, so I would
8 really appreciate it continuing to move forward
9 so that we give the voters a voice.

10 CHAIRMAN BERUFF: Any more debate on
11 Commissioner Gamez' motion?

12 Okay. Commissioner Gamez, would you like
13 to close on your motion?

14 COMMISSIONER GAMEZ: Thank you, Mr. Chair,
15 just briefly.

16 Again, no one is here trying to kill this
17 particular proposal. That's not the intent.
18 I'm also not trying to trivialize or call out
19 the significance or insignificance of the other
20 proposals which this has been bundled with.

21 I think Commissioner Donalds had brought
22 up the point, well, this is trying to prop this
23 up, that's the very reason why I don't want
24 these together, and quite honestly, if you look
25 at the vote history on each of these proposals,

1 they will stand and fall even if they were all
2 uncoupled.

3 I'm simply asking that Proposal 13,
4 because of its great impact on local governance
5 in particular, the other ones are a little bit
6 more different because they do go to Executive
7 and the Legislature, this is very specific as
8 to local governance and I think that it should
9 rise and fall on its own merits as Commissioner
10 Martinez eloquently put it.

11 So I ask you to please support this motion
12 and send it back to Style and Drafting to
13 specifically just remove Proposal 13 and bring
14 it back as a stand-alone. It is not going to
15 kill it, Commissioner Nocco. This is going to
16 come back to the floor and it would still make
17 it onto the ballot. That's all I ask. Thank
18 you.

19 CHAIRMAN BERUFF: Okay. All those in
20 support of the motion, signify by saying yea.

21 (Chorus of yea's.)

22 CHAIRMAN BERUFF: All those against,
23 signify by saying nay.

24 (Chorus of nay's.)

25 CHAIRMAN BERUFF: The nay's have it.

1 Motion fails.

2 Now we will go to debate on Revision 5.
3 Debate on Revision 5. Commissioner Lee is
4 recognized.

5 COMMISSIONER LEE: Thank you, Mr. Chair.

6 I just want to say briefly because, you
7 know, we -- we just had a motion here that went
8 through and was defeated on separating these
9 proposals, that I am supportive of Proposal 13.

10 I have had the obligation of dealing with
11 this in the Legislature. There was a number of
12 members from the Miami-Dade delegation as part
13 of this Commission, and one of the members of
14 the Senate from that delegation brought this
15 very issue to the Senate, and we heard multiple
16 versions of it for multiple constitutional
17 officers, and I was supportive of it.

18 And the reason why is because I thought
19 that in a perfect world, as the Sheriff
20 mentioned, you would have independence in law
21 enforcement. And I thought the best way to fix
22 this proposal if there was controversy about it
23 was to require everybody just to put it on the
24 ballot in 2018 or 2020, and then if it didn't
25 pass, grandfather them in.

1 But I support this Proposal 13. The rest
2 of them I think are important, but to -- but
3 this Proposal 13 really, truly is the most
4 substantive in terms of changing the way the
5 world will look. Once this proposal passes,
6 the Legislature can still do what it needs to
7 do under 103, we still have a Department of
8 Veterans' Affairs, we still have a Department
9 of Domestic Security and Counterterrorism, but
10 these constitutional officers, the fact that
11 they are not elected is the same reason that
12 we've had trouble doing some things in this
13 Constitution Revision Commission.

14 It's hard for elected officials who
15 consolidate power to give it up. And in some
16 of these communities, the public has been
17 denied the ability to vote on these things for
18 decades because the people that benefit from
19 consolidating that power and controlling these
20 people through appointments don't want to let
21 them do that.

22 So I am going to support this proposal,
23 and because we had that little controversy
24 about pulling it out, I just want to make sure
25 the Sheriff and others know that I think that

1 it's time to at least let the people locally
2 vote on these constitutional officers once
3 again.

4 CHAIRMAN BERUFF: Debate on Revision 5?
5 No further debate on Revision 5.

6 Commissioner Heuchan, would you like to
7 close on Revision 5?

8 COMMISSIONER HEUCHAN: Mr. Chairman, thank
9 you. I will waive close on Revision No. 5.

10 CHAIRMAN BERUFF: Commissioners, please
11 vote.

12 Close the board and announce the tally,
13 please.

14 THE SECRETARY: Twenty-nine yea's, eight
15 nay's, Mr. Chair.

16 CHAIRMAN BERUFF: The revision is adopted
17 as amended. It is ordered engrossed and shall
18 be submitted to the Secretary of State to be
19 placed on the ballot at the November 6, 2018,
20 general election.

21 Moving on to Revision 6.

22 COMMISSIONER HEUCHAN: Thank you, Mr.
23 Chairman. I guess I am recognized.

24 Revision 6 is PCP 6006. It was grouped
25 together by Style and Drafting Committee and

1 includes substance of Proposal No. 3, No. 12,
2 and No. 20. The title reads "Property Rights,
3 Removal of Obsolete Provision, and Criminal
4 Statutes."

5 Revision 6 takes the form of a clean-up
6 grouping. It removes discriminatory language
7 from our Constitution in the form of Proposal
8 No. 3, which was Commissioner Martinez'. It
9 removes the provision that serves to determine
10 the penalty for a crime, not on the penalty
11 when you are prosecuted at that time, but when
12 you commit the crime, and that is the substance
13 of Proposal 20, which is Senator Rouson's
14 Proposal.

15 It also takes out the high-speed rail
16 language that has been repealed but still sits
17 in our Constitution inoperative, and that is in
18 the form of Proposal No. 12 by Commissioner
19 Timmann.

20 There was one -- only one -- one
21 amendment, sorry, to this revision, and that
22 was in Proposal 12, which was the high-speed
23 rail repealer. Instead of deleting the entire
24 Section 19, Article X, and then renumbering the
25 rest of the Article X, the lan- -- which is the

1 language in Section 19, it will be replaced
2 with the word "repealed" so as not to hinder
3 cross-referencing of those sections in case law
4 and legal research.

5 Mr. Chairman, that is the explanation.

6 CHAIRMAN SMITH: Having explained Proposal
7 6, are there any questions on Proposal 6? Are
8 there any questions?

9 Going into debate, is there any debate on
10 Proposal 6? Any debate?

11 Commissioner Heuchan, you are recognized
12 to close on Proposal 6.

13 COMMISSIONER HEUCHAN: Thank you,
14 Mr. Chairman. I waive close on Proposal No. 6.

15 CHAIRMAN SMITH: The secretary will open
16 up the board and we will vote on Proposal 6.

17 Please lock the board and announce the
18 vote.

19 THE SECRETARY: Thirty-six yea's, one nay,
20 Mr. Chair.

21 CHAIRMAN SMITH: Thank you. The revision
22 is adopted and shall be committed to the
23 Secretary of State to be placed on the ballot
24 at the November 6, 2018, general election.

25 Commissioner Carlton, you are recognized.

1 COMMISSIONER CARLTON: Thank you, Mr.
2 Chairman.

3 I just had a motion we failed to open up
4 the board for co-sponsors on. It was the
5 6005 -- 6005, is that right? So with your
6 indulgence, if you could, I would move that we
7 open up the board for co-sponsors on that
8 particular provision.

9 CHAIRMAN SMITH: Okay. We will go back to
10 Proposal 6005 and open up the board. Those
11 that want to co-sponsor, please signify. Good,
12 I got a button up here. All those who want to
13 co-sponsor.

14 Please lock the board. Those persons will
15 be known as co-sponsors for this proposal.

16 CHAIR NUÑEZ: Okay. We will take up
17 Revision 6007.

18 Commissioner Heuchan, you are recognized
19 to explain the revision.

20 COMMISSIONER HEUCHAN: Thank you, Madam
21 Speaker.

22 Revision No. 7 is PCP 6007. The substance
23 of Revision 7 comes in the form of Proposal 39
24 by President Gaetz. The title reads, "Lobbying
25 and Abuse of Office by Public Officers."

1 As you can see, and you've heard a lot
2 about this today, Proposal No. 39 was left as a
3 stand-alone proposal for a number of reasons.
4 Most notably, the committee took on some
5 substantive changes.

6 There was one substantial amendment that
7 was dealt with, and it -- it dealt with the
8 change on the prohibition on representing a
9 person for compensation before any government
10 body or agency to only the government body or
11 agency the person was a member of, and removed
12 prohibition on political subdivisions from
13 hiring lobbyists on appropriations matters.

14 So just to be clear, President Lee and I
15 were talking over the loud speaker earlier,
16 there were two -- I will just represent to you
17 all -- significant changes to the proposal in
18 the way that it went, in the way that it's come
19 back, just along the lines that President Lee
20 and others have said this idea that, you know,
21 we wouldn't have a chance to vote on a proposal
22 by itself with changes of that -- of that
23 nature. This proposal was left by itself, not
24 exclusively for that purpose, but particularly
25 for that purpose.

1 And so, yeah, that's -- that's it, Madam
2 Chair. It -- this proposal was amended in
3 those two ways, and I know Commissioner
4 Stargel, Commissioner Sprowls, Commissioner
5 Jordan, there were a lot of people involved in
6 this one, and, of course, we have President
7 Gaetz who can talk about the change.

8 I also know that he has an amendment that
9 is a strike-all, and hopefully we can get to
10 that without too many hard questions for me.

11 CHAIR NUNEZ: Thank you, Commissioner.

12 Are there questions on the revision?

13 Being no questions, we will now move into
14 amendments. We will take up the first
15 amendment, Bar Code 604040.

16 Commissioner Gaetz, you are recognized,
17 sir.

18 COMMISSIONER GAETZ: Thank you very much,
19 Madam Speaker. With your permission, there is
20 a -- there is a delete-all -- a substitute
21 delete-all, which is 333920, and with your
22 permission, I would like to go to that, please.

23 CHAIR NUNEZ: You are recognized to
24 explain Amendment 333990.

25 COMMISSIONER GAETZ: Thank you very much,

1 Madam Chair.

2 When we last saw Proposition 39, the
3 ethics package, it was voted off the floor with
4 only five dissenting votes. It was sent to
5 Style and Drafting for what was expected to be
6 cosmetic surgery. I won't say it came out with
7 a double amputation.

8 I will say, though, that I am told that
9 the ethics amendment was the only proposal of
10 the 25 that we sent to Style and Drafting that
11 actually was rewritten by the committee over
12 the objections of the sponsor.

13 Almost everything can be improved upon,
14 possibly with the exception of the Ten
15 Commandments, the Sermon on the Mount, and
16 Winston Churchill's wartime speeches.
17 Certainly my work can be improved upon. But in
18 full disclosure to the Commission, the ethics
19 package that came out of Style and Drafting was
20 not the ethics package that we voted on on the
21 floor.

22 But since then, there's been a substantial
23 amount of work by many Commissioners to try to
24 come up with something that says what we mean
25 and means what we say and can be understood not

1 only by the Commission and the voting public,
2 but also understood in implementation by the
3 Legislature and by the courts and by the
4 public.

5 So to torture the metaphor, we've been
6 doing some restorative surgery, and the
7 substitute which is before you puts the teeth
8 back in ethics amendment. In my view, the
9 substitute before you is a better proposal than
10 the one that I originally sponsored.

11 It is better because it uses clearer
12 constitutional language, tighter definitions,
13 and it encompasses and answers issues and
14 concerns that were not contemplated certainly
15 by me or contemplated in the debate and vote
16 that we had on this floor.

17 I am joined in sponsoring this measure
18 today by Commissioners Plymale, Carlton,
19 Heuchan, Newsome, Martinez, Schifino,
20 Thurlow-Lippisch, and Beruff, and that's much
21 better company that I can usually attract.

22 Here is what Substitute Amendment 333920
23 does. There are five parts. First, all
24 elected public officials while they are in
25 office are barred from lobbying for

1 compensation on any matter of policy,
2 appropriations, or procurement before any level
3 of government, federal, state or local. To
4 borrow President Lee's admonition, which my
5 wife said I had to quote, she said, "Remember
6 President Lee said 'If you want to represent
7 the people, run for office. If you want to
8 represent special interest, be a lobbyist.'"
9 And if this passes, Commissioners, you can no
10 longer be both at the same time.

11 The second major provision in this
12 substitute, there is a six-year lobby ban. On
13 your -- there are charts which we have
14 available, which I think many of you have seen,
15 which provide for each category of public
16 officer, the current law, and the proposed
17 prohibitions on lobbying.

18 Former legislators, former Governors,
19 former Lieutenant Governors, former Cabinet
20 members are barred for six years from lobbying
21 the Legislature, the cabinet, or any state
22 agency. Former heads of executive departments
23 are barred for six years from lobbying the
24 Governor's Office, the Cabinet, the
25 Legislature, or the department that they used

1 to run. Former local officials, that's County
2 Commissioners, constitutional officers,
3 superintendents, School Board members, Mayors,
4 Council members, are barred for six years from
5 lobbying their former agency or governing body.
6 And former Justices or Judges are barred for
7 six years from lobbying before the Legislature
8 or executive branches of state government, and
9 I thank Judge Stargel for helping us work out
10 the kinks in that provision.

11 The third major part of this proposal is
12 that public officers and public employees are
13 prohibited from abusing their office to obtain
14 what is called in this proposal a
15 disproportionate benefit for themselves, their
16 families, their employer, their business
17 associates, or their investments.

18 The Commission on Ethics is empowered to
19 define "disproportionate benefit" and to
20 prescribe the requisite intent for finding a
21 violation and for enforcement, and that was a
22 contribution of Commissioner Kruppenbacher, who
23 is the former Chair of the Ethics Commission.

24 Fourth, the fourth part of this proposal,
25 the ethics amendment is largely self-executing,

1 but as the Legislature enacts implementing
2 legislation and there is implementing
3 legislation necessary, they must follow what's
4 called the single subject rule.

5 In crafting the government in the sunshine
6 amendment to the Constitution, Governor Askew
7 knew that some definitions, some
8 clarifications, and even exceptions would be
9 warranted in the years following, but he
10 insisted that in such cases, any statutory
11 action could not contain provisions on any
12 other issue. It had to stand by itself so
13 everybody could see it and how everybody voted.

14 This proposal follows the government in
15 the sunshine model and includes the same
16 single-subject requirement for implementation
17 and clarification.

18 Fifth, there is a schedule for
19 implementation of this provision should it
20 become a part of our Constitution. First, the
21 Ethics Commission would adopt its rules by
22 October 1st, 2019, and then the Legislature
23 would enact any implementing legislation,
24 including penalties that are called for, by
25 December 31st, 2020, the abuse of public

1 position provision having to do with
2 disproportionate benefit. Section 8, would
3 take effect December 31st, 2020, and the
4 lobbying bans applying to every public officer
5 in the state would take effect on
6 December 31st, 2022.

7 The substitute does contain this
8 significant change from the original language
9 of Proposition 39, a significant change which
10 -- which is worth on my underscoring so that
11 you understand the areas in which I think we
12 have made some progress in making this proposal
13 better since you voted for it. Proposal 39
14 barred, quote, "representation for
15 compensation," end quote. The amendment before
16 you prohibits, quote, "lobbying for
17 compensation on issues of policy,
18 appropriations, and procurement," end quote.

19 Why the change? What does that mean?
20 Some legal authorities pointed out to us that
21 the term "represent for compensation" could
22 have and probably would have a far broader
23 meaning than we intended. So we -- prohibiting
24 representation for compensation could, we were
25 told, be interpreted to prohibit the practice

1 of law in some ways, or even other professions
2 like accountancy or engineering. And, of
3 course, it was never our intention to do that.
4 So we began to try to write our way through and
5 around the practice of law versus the actions
6 and behavior that we were trying to prohibit.
7 And so we worked on scenarios and limitations
8 and definitions and exemptions, and the more we
9 wrote, Mr. Chairman, Madam Speaker, the longer
10 and more complicated the Bill got and the more
11 the Constitution began looking like the book of
12 Leviticus. And that certainly wasn't our
13 intention.

14 The sponsors of Proposition 39 had this
15 intention: We intend to shut the revolving
16 door, to nail shut the revolving door between
17 public office and private lobbying, between
18 heading an agency and then turning around and
19 lobbying the agency you headed, between serving
20 on the County Commission while simultaneously
21 lobbying another local government that has
22 interconnected interests.

23 Ending this practice of monetizing public
24 service for private gain is what two statewide
25 Grand Juries have called for, and doing that is

1 our intention.

2 So we sought counsel from the
3 constitutional authorities that Chairman Beruff
4 was able to commission to be part of and to
5 advise this Commission. We asked them for
6 help. We went to the State Bar and asked them
7 for help. We went to legal scholars and to the
8 professional staffs of the Senate, the House
9 and the Supreme Court.

10 And I don't mean to implicate them in
11 every word that's in this substitute, but I do
12 mean to say that as a result of their help, in
13 the substitute before you, "represent for
14 compensation" is dropped and is changed to
15 "lobby for compensation," and "lobby for
16 compensation" is clearly defined to cover
17 policy, appropriations, or procurement. The
18 change is important to achieve the goals that
19 the sponsors set out to achieve.

20 This proposal does not prohibit a lawyer
21 who is a legislator from representing his
22 client in permitting or zoning matters. A ban
23 against lobbying does not prohibit an
24 accountant or an engineer or a teacher, a
25 nurse, or an auto shop owner from conducting

1 his or her own business while serving as a
2 citizen office holder.

3 But here's the bright line: This measure
4 does prohibit public officials from accepting
5 compensation from a third party to lobby
6 anybody at any level of government to adopt or
7 change a policy, to spend or direct public
8 money, or to secure a contract on behalf of
9 anyone.

10 "Represent for compensation" is out.
11 "Lobby for compensation" on issues of policy,
12 appropriations or procurement is in. That is
13 the major change between what you voted for
14 before and what I hope you will vote for today.
15 If you vote yes on the substitute strike-all
16 Amendment 333920, you will restore the ethical
17 standards you supported when you voted
18 Proposition 39 off the floor last month, but
19 you will do so with clearer, tighter, better
20 constitutional language. That is the
21 proposition. That is the amendment, Madam
22 Speaker.

23 CHAIR NUNEZ: Thank you.

24 Are there questions of the sponsor?

25 Commissioner Diaz.

1 COMMISSIONER DIAZ: Thank you, Madam
2 Chair.

3 Mr. President, I have a couple questions,
4 the first being you had mentioned that the
5 amendment would not take effect for
6 compensation and abuse of public position until
7 December 31st, 2022. Does that mean that
8 anybody that is elected at that time will be
9 subject to this, or does that mean that that's
10 when the periods begin?

11 CHAIRMAN NUNEZ: Commissioner Gaetz.

12 COMMISSIONER GAETZ: Thank you, Madam
13 Chair.

14 It means, Commissioner Diaz, that anyone
15 who is holding public office at that time,
16 whether they were elected the day before or
17 five years before, if they were holding public
18 office at that time, if this becomes part of
19 our Constitution, the prohibitions and
20 limitations would apply to them.

21 But there is no retroactive component to
22 the provision. There's nothing that goes back
23 into -- into the past or catches somebody based
24 upon some action that was -- that occurred
25 before then.

1 CHAIR NUNEZ: Commissioner Diaz.

2 COMMISSIONER DIAZ: You had also said that
3 because it says "lobby," that it would not
4 encompass land use matters. But certain local
5 jurisdictions make you register as a lobbyist
6 if you're doing a land use matter. Does not
7 that registration a lobbyist make?

8 CHAIR NUNEZ: Commissioner Gaetz.

9 COMMISSIONER GAETZ: Thank you very much,
10 Madam Chair.

11 Commissioner, if we look at Section
12 122.3215 of statute, a "lobbyist" is defined as
13 "a person who is employed and receives payment
14 or who contracts for economic consideration for
15 the purpose of lobbying or a purpose who is
16 principally employed for governmental affairs
17 by another person or governmental entity to
18 lobby on behalf of that other person or
19 governmental entity."

20 A lobbyist does not include an attorney or
21 anybody who -- who makes a -- who represents a
22 client in a judicial proceeding or so forth.

23 But there is no circumstance that would
24 prevent a local government from declaring that
25 an apple is an avocado. But as you know,

1 having served in the Legislature, the
2 Legislature has the authority, and this
3 amendment, if you adopt it, specifically
4 provides that the Legislature will implement
5 this provision, and if it is in the
6 Legislature's -- if the Legislature in its
7 wisdom decides to -- to create a definition
8 that is preemptive in nature, they have that
9 authority should this pass.

10 But just because someone says "you are an
11 avocado" doesn't make you an avocado, the
12 constitutional language uses the term
13 "lobbying" and references back to the statutory
14 definition of "lobbying." It does not
15 contemplate that a local government could
16 create its own language that would be more
17 restrictive than the Constitution.

18 CHAIR NUNEZ: Commissioner Schifino.

19 COMMISSIONER SCHIFINO: Thank you, Madam
20 Chair.

21 Commissioner Gaetz, a few questions for
22 clarity. The strike-all amendment changes the
23 scope of the prohibitions from represent to
24 lobby, as you've noted. I want to make certain
25 that it is your intent that by using the term

1 "lobby," that the prohibitions would not apply
2 to the practice of law.

3 CHAIR NUNEZ: Commissioner Gaetz.

4 COMMISSIONER GAETZ: Thank you, Madam
5 Chair.

6 Yes, Commissioner Schifino, the term
7 "lobbyist" under current law -- again, in
8 Chapter 112.3215, Florida Statutes,
9 specifically excludes attorneys representing
10 clients in a judicial proceeding or in a formal
11 administrative proceeding or other formal
12 hearing before any agency, board, commission,
13 or authority of this state.

14 Furthermore, the Florida Supreme Court has
15 held that lobbying as defined by this statute
16 does not constitute the practice of law. The
17 Commission on Ethics has adopted rules
18 interpreting these exclusions for judicial and
19 administrative proceedings. In particular,
20 Commissioner Schifino, the rule defines
21 administrative proceedings so as to make clear
22 that lobby -- the term "lobbyist" does not
23 include an attorney representing clients in
24 administrative proceedings such as formal or
25 informal hearings, bid protests, rule

1 challenges, rule-making or hearings of a
2 similar nature.

3 Now, the Supreme Court, Commissioner
4 Schifino, as you well know, in *Florida*
5 *Association of Professional Lobbyists versus*
6 *Division of Legislative Information Services*
7 made clear that the practice of law includes --
8 and I quote from the court -- "performance of
9 services in representing clients before the
10 courts, giving of legal advice, and preparation
11 of legal instruments."

12 And so the answer to the question is yes,
13 sir.

14 COMMISSIONER SCHIFINO: Thank you,
15 Commissioner Gaetz.

16 CHAIR NUNEZ: Commissioner Schifino.

17 COMMISSIONER SCHIFINO: Furthermore, the
18 strike-all amendment use -- also uses the term
19 "policy" as you've noticed, in reference to the
20 lobby prohibition. It is also your intent that
21 by using the term "policy," you're further
22 clarifying that the prohibitions do not apply
23 to the practice of law?

24 CHAIR NUNEZ: Commissioner Gaetz.

25 COMMISSIONER GAETZ: Thank you, Madam

1 Speaker.

2 Yes, as noted, it is our intention for
3 this constitutional provision to be interpreted
4 in a fashion similar to that reflected in
5 current statutes and rules on lobbying. The
6 term "policy" as defined in the Commission of
7 Ethics Rule 34-12 specifically states, and I
8 quote, "Policy does not include the
9 determination or adjudication of any rights,
10 duties, or obligation of a person made on a
11 case-by-case basis, such as would be involved
12 in the issuance or denial of a license, permit,
13 or certification in a disciplinary action or
14 investigation involving a person."

15 So the answer to your question is yes.

16 COMMISSIONER SCHIFINO: And my last
17 question --

18 CHAIR NUNEZ: Commissioner Schifino.

19 COMMISSIONER SCHIFINO: Madam Chair, thank
20 you.

21 The strike-all amendment expands the new
22 prohibitions to any political subdivision of
23 the state. The current definitions of "lobby"
24 and "lobbyist" and "policy" contained in the
25 statute and rules of the Commission on Ethics

1 only apply to the State Executive branch. Is
2 it your intent that these existing rules and
3 statutory provisions would also apply to any
4 political subdivision?

5 CHAIR NUNEZ: Commissioner Gaetz.

6 COMMISSIONER GAETZ: Thank you, Madam
7 Speaker.

8 Yes, Commissioner Schifino. Furthermore,
9 the strike-all amendment also provides for
10 implementing legislation and implementing
11 rule-making. And so it is absolutely true that
12 if you compare the rules of the Senate to the
13 rules of the House, to the Joint rules, to
14 statute, you will see some differences in -- in
15 language and a nuance as the term "lobbyist" or
16 "lobbying" is defined, and that's why we
17 provide for implementing legislation by the
18 Legislature.

19 CHAIR NUNEZ: Additional questions?
20 Additional questions?

21 We will now move to Amendment Bar Code
22 815522 to the substitute amendment.
23 Commissioner Stemberger, you are recognized to
24 explain your amendment to the substitute
25 amendment.

1 COMMISSIONER STEMBERGER: Thank you, Madam
2 Chair.

3 This is my previous Proposal 37, which has
4 now become Revision 11 or Proposal 6011. I do
5 believe that this belongs in the Constitution
6 because it constitutes a limitation of the
7 powers of government. It binds their hands
8 from doing something that I think is gratuitous
9 and borders on unethical.

10 It would be a very popular amendment. I
11 believe it would pass if put on the ballot.
12 And, also, as you can imagine, it is very cool
13 to have something on the ballot that you are
14 responsible for putting on there. No less than
15 six Commissioners came up to me and said, hey,
16 I think this would pair nicely as an ethics
17 thing and you should have it put with the
18 lobbying ethical provision.

19 However, I wrote an editorial this past
20 week in the *Tampa Bay Times* where I described
21 Florida's Constitution as bloated, and I
22 believe that. I set forth principles I think
23 that are appropriate, given the kind of
24 government we have in the state, as to what's
25 appropriate in the Constitution and what is

1 not.

2 I've also had several Supervisor of
3 Elections -- one specifically, Alan Hays, who
4 used to sit in this chamber as a senator who is
5 now Supervisor of Elections in Lake County --
6 asked me to plead with this body to not put too
7 many things on the ballot. They have to both
8 produce a sample ballot that they mail out to
9 all the voters and an absentee ballot, which
10 are very expensive the bigger that they get.

11 And we've also heard lots about long lines
12 as well and that being a discourage to people
13 exercising the franchise or even having the
14 ability to do it if not getting there on time
15 and et cetera.

16 Having said all that, I am going to -- and
17 I realize that this now is no longer my
18 product, this is the product of this body, but
19 Madam Chairman, I am going to recommend that
20 this body withdraw this amendment and this
21 entire proposal from being considered in light
22 of what was being said.

23 Representative Sprowls, who Lord willing,
24 will be a future Speaker, has told me that he's
25 going to ensure that this is going to be looked

1 at by the Legislature as well, even though it
2 would not be a permanent thing because you
3 can't bind the hands of future Legislatures.
4 So in light of that, I am going to propose that
5 this body withdraw this amendment and the
6 entire proposal from consideration even as a
7 free-standing proposal.

8 CHAIR NUNEZ: Thank you, Commissioner
9 Stemberger. Show amendment to the Substitute
10 Bar Code 815522 withdrawn.

11 Commissioner Stemberger, as to the
12 withdrawal of your proposal, you will be able
13 to address that at the appropriate time.

14 We will now move to the next amendment to
15 the substitute. Commissioner Plymale, Bar Code
16 334636, you are recognized to explain your
17 amendment to the substitute.

18 COMMISSIONER PLYMALE: Thank you, Madam
19 Speaker.

20 My amendments -- there was a variety of
21 them -- to what I call the ethics proposal, or
22 Revision 7, is -- the substance of it is
23 Revision 9, which we'll get to later, closing
24 the write-in loophole.

25 And as much as I feel that my proposal

1 belongs on this revision and I truly believe
2 that the ethics of our election process and the
3 ethics of the potential public officials is as
4 important as the ethics of when they are in
5 office, I, however, will withdraw all of my
6 amendments to the ethics proposal at this time.

7 CHAIR NUNEZ: Show Amendment Bar Code
8 334636 withdrawn.

9 We are now back -- I am being told that we
10 have a late-filed amendment by Commissioner
11 Lee. Does everyone have that on their desk?
12 Okay. Give us a second. They're going to make
13 sure everyone has a copy of that before we take
14 it up.

15 Commissioners, we will now vote on whether
16 to consider the late-filed amendment by
17 Commissioner Lee, Bar Code 971642. All in
18 favor, signify by saying yea.

19 (Chorus of yea's.)

20 CHAIR NUNEZ: Opposed, nay.
21 Show the amendment introduced.

22 Commissioner Lee, you are recognized to
23 explain your amendment to the substitute.

24 COMMISSIONER LEE: Thank you, Madam Chair,
25 and I suspect we will have at the end of this

1 session, an opportunity for a motion to allow
2 staff to make technical changes. I've drafted
3 this on the fly. I think it is properly
4 drafted to -- I know it is properly drafted to
5 where I want it connected to, but that the
6 wording is -- is specifically concise.

7 But as I was reading through this, I am a
8 staunch advocate for everything that President
9 Gaetz is trying to do, and as you know, then
10 some. But one -- I've become aware of an issue
11 over time that I think becomes just a little
12 bit of a bridge too far.

13 And there are situations where public
14 officials are in business. They are a
15 licensee, real estate, construction, whatever
16 it may be. They are payer of sales tax and
17 corporate tax. They own property and may be
18 subject to a condemnation action by the state.
19 And there is a question at the Ethics
20 Commission as to whether or not a public
21 official -- the prohibitions that are currently
22 in law, whether or not that would preclude a
23 public official from responding even to an
24 action initiated by the government. So if you
25 get a letter from the government that says,

1 hey, there's a problem with your broker's
2 license or your contractor's license or
3 something like that, we need a bond or
4 whatever, you technically might be in violation
5 of the Ethics Commission's provisions if in
6 response to that letter you picked up the phone
7 and called the department and said what is my
8 problem, what did I do wrong, how can I fix it?
9 The same might be true with a condemnation
10 action or anything of that nature.

11 And so this -- this little tag-on to line
12 96 of President Gaetz' amendment simply
13 would -- would say that nothing herein shall
14 preclude a public officer from responding to
15 matters wherein government has initiated
16 contact with the public officer. So you can
17 call people back or respond to their letters if
18 they initiate contact with you, but the idea is
19 for you not to abuse your power by contacting
20 government and trying to get some sort of
21 benefit of some sort from government that you
22 wouldn't otherwise be entitled to. And that is
23 the purpose of the -- of the amendment to
24 the -- to the amendment.

25 CHAIR NUNEZ: Are there questions of the

1 sponsor? Other questions?

2 Commissioner Joyner.

3 COMMISSIONER JOYNER: Thank you.

4 Senator Lee, is there anything in
5 statutory law that follows? So this proposal
6 has never been put before the Legislature?

7 CHAIR NUNEZ: Commissioner Lee.

8 COMMISSIONER LEE: Well, I wouldn't -- I
9 wouldn't know if it's ever been put before the
10 Legislature. I just -- I just see what we're
11 doing here about public officers and public
12 employees and how this would trump anything the
13 Legislature could do going forward, and I just,
14 you know, wanted to have a conversation here on
15 the floor about the intent and whether the
16 intent was -- which I don't think it is -- for
17 a member of the Legislature or a County
18 Commissioner or whatever it may be to be in a
19 situation where as an elected official, they're
20 approached by government to have their property
21 condemned or have questions about a licensure
22 matter that they have as a part-time elected
23 official, and not be able to actually pick up
24 the phone and respond to the department that
25 has contacted them and initiated contact with

1 them. That is the only purpose for this
2 provision is to make sure that nothing in this
3 -- this well-intentioned and well-drafted
4 provision from line 85 to 96 would preclude an
5 elected official from responding when actions
6 are initiated by the government against them.

7 CHAIR NUNEZ: Commissioner Joyner.

8 COMMISSIONER JOYNER: Commissioner Lee,
9 you said that the Ethics Commission had --
10 there is an opinion -- I missed that part. I
11 think there is a lack of concentration right
12 about now.

13 CHAIR NUNEZ: Commissioner Lee.

14 COMMISSIONER LEE: I won't take that
15 personally. I feel you.

16 So, yes, each of these matters that happen
17 over the course of time, as you know, result --
18 depending on where you're at in government, the
19 general counsel of the entity or you're a
20 county attorney or somebody, you know, looking
21 at these matters and contacting the Ethics
22 Commission, the Ethics Commission can take
23 these issues up over time and render an opinion
24 about what they think.

25 There is questions, there's nothing on

1 point right now, and the advice that people are
2 being given today is even if you are contacted
3 by government, even if you are a tax filer or a
4 limited liability company or a corporation
5 or -- or -- we don't have personal income
6 taxes, that wouldn't be relevant, but -- or you
7 are a licensee, and the government contacts you
8 as they do from time to time about maybe you
9 being late on your renewal or whatever, that
10 you can't even pick up the phone and say, hey,
11 I mailed that two weeks ago, you haven't gotten
12 it, I'll -- that that would be considered
13 contact with your government and that that
14 contact has been questioned as to whether or
15 not that's an appropriate contact.

16 And my point would be when -- the purpose
17 of these provisions for ethics is not to
18 preclude elected officials from being able to
19 respond when government initiates an action or
20 a contact toward them and they have an
21 affirmative obligation to respond to them and
22 they don't have to go hire a lawyer or a
23 surrogate of some form or fashion to make
24 that -- to have that response. That's the
25 purpose.

1 CHAIR NUNEZ: Commissioner Coxe.

2 COMMISSIONER COXE: Madam Chair, a
3 question to Commissioner Lee.

4 Commissioner Lee, this goes to the very
5 end of the paragraph that begins at line 85,
6 correct?

7 Line 85 talks entirely in terms of
8 disproportionate benefit. Whether their
9 con- -- contact was made by the government or
10 not, isn't it the disproportionate benefit that
11 controls the issue, no matter how the conversa-
12 -- I mean, who calls whom?

13 CHAIR NUNEZ: Commissioner Lee.

14 COMMISSIONER LEE: Well, in other words,
15 that is -- I think that tracks current law
16 essentially. And so all of these -- all of
17 these rulings and opinions, I think, flow from
18 this very similar kind of language.

19 I would argue in a condemnation when the
20 process is done right, no one can get a -- a
21 disproportionate benefit because you're
22 supposed to exchange real estate for cash and
23 it is -- and -- but these words as interpreted
24 would mean that perhaps I contact government
25 and I -- in response to this action initiated

1 against me, and I resolve it quickly, that I
2 have somehow gained a disproportionate benefit
3 because nobody else got the same benefit. I
4 was the only one contacted. I am the only one
5 with the problem. And I just want to make it
6 abundantly sure that if the government contacts
7 an individual and that -- that they are not
8 precluded from defending their property rights
9 or their licensure issues or whatever they may
10 have as an elected official, but that we
11 certainly maintain this principle that you
12 shouldn't be contacting government for the
13 purposes of trying to throw your weight around,
14 which is the whole point of this.

15 COMMISSIONER COXE: May I follow with one
16 question, Madam Chair?

17 Commissioner Lee, the reason I ask is
18 because unless this language in the amendment
19 were to create an exception to the
20 disproportionate benefit issue, why is it
21 necessary? If you have a conversation at all
22 and are trying to get a disproportionate
23 benefit, that's what's prohibited, not who
24 initiates the conversation, as I understand it.

25 CHAIR NUNEZ: Commissioner Lee.

1 COMMISSIONER LEE: Well, I view it a
2 little differently, and, you know, I'm
3 certainly willing to hear from President Gaetz,
4 but the way I look at this is it's not just
5 tied to one's interpretation of a
6 disproportionate benefit.

7 I can tell you that -- that the status of
8 the law today is that if I want to do business
9 with the State of Florida as a state-elected
10 official, I am precluded from contacting them.
11 And I might not be getting a disproportionate
12 benefit of any kind, but because I am an
13 elected official, there is a justifiable
14 perception that the government might respond
15 differently to me than it would somebody else,
16 and. Therefore, we don't want any of that
17 nonsense going on and we've cut it off.

18 All I am saying here is that if under any
19 circumstance your government contacts you, that
20 I think the elected official ought to have the
21 right to be responsive to government, but I
22 don't -- this whole disproportionate gain
23 concept, to me, doesn't -- it may apply to
24 this, but my point is more broad and more
25 general than that.

1 CHAIR NUNEZ: Commissioner Carlton.

2 COMMISSIONER CARLTON: Were you -- were
3 you wanting the inserted language to tag on to
4 the section about the public officer shall not
5 lobby for compensation instead of the
6 disproportionate share? You meant it to be on
7 the disproportionate share?

8 COMMISSIONER LEE: Yes, yes. I don't
9 think a member of the Legislature or a member
10 of local government ought to be lobbying -- you
11 know, I think you're on one side of that line
12 or the other.

13 This portion here in President Gaetz'
14 proposal seems to me to relate more to things
15 that can happen when elected officials are in
16 business and may have an opportunity to do
17 business with a particular governmental entity
18 wherein they serve.

19 And this comes up not infrequently in a
20 citizen Legislature, I'm sure, and I'm fine
21 with that as it relates to if you are a partner
22 or a director or a proprietor or an officer,
23 you should not be contacting the government
24 that you represent for the purposes of doing
25 business with that government or, quote,

1 whatever the interpretation is gaining a
2 disproportionate benefit for himself or
3 herself.

4 I am just saying that when -- in those
5 circumstances where you're forced to do
6 business with the state because the state has
7 contacted you to do business with you, maybe
8 sometimes through eminent domain or maybe
9 sometimes through a regulation -- a license
10 regulator, that you have the ability to at
11 least respond to them when they have initiated
12 that action, and that nothing in here would
13 preclude an elected official from being
14 responsive to their government in those cases.

15 CHAIR NUNEZ: Commissioner Carlton.

16 COMMISSIONER CARLTON: Well, I guess -- I
17 guess I am having a hard -- I guess what I am
18 having a hard time is connecting the returned
19 phone call. You're saying a returned phone
20 call, then, could potentially equal a
21 disproportionate benefit to the elected
22 official, and that's what you are trying to
23 avoid?

24 CHAIR NUNEZ: Commissioner Lee.

25 COMMISSIONER LEE: Well, there's a variety

1 of ways, of course, government contacts you.
2 They can contact you through e-mail and through
3 the mail and what-have-you. And irregardless
4 of, you know, what the -- what the
5 circumstances might be under who ultimately
6 will define at the Ethics Commission,
7 disproportionate benefit, which this leaves to
8 the Ethics Commission to define, and so we
9 don't have -- we know and expect -- I
10 personally hope and believe and expect that the
11 Ethics Commission will define this in the
12 strictest of terms as they have most other
13 things we have sent them, because that's their
14 role in the universe here is to try to keep
15 everybody honest brokers.

16 And I am just saying whatever that
17 definition ends up being, nothing would
18 preclude an elected official from responding to
19 their government when they're forced to do
20 business with them through an action initiated
21 by the government.

22 CHAIR NUNEZ: Commissioner Carlton.

23 COMMISSIONER CARLTON: Okay. So that
24 makes me understand what you are trying to do a
25 little bit more, and I think maybe your

1 hesitation is -- is you don't know what
2 disproportionate benefit means, which I want to
3 say is -- has -- I mean, it hasn't -- there is
4 case law on disproportionate benefit and there
5 are ethics cases that have sort of defined what
6 that is.

7 So I think -- I'm trying to understand,
8 then, so your disproportionate benefit, you
9 don't want -- you don't want certain things
10 like that are done in the regular course of a
11 person's business to be defined necessarily as
12 disproportionate benefits. You don't know if
13 it is a broad definition or a narrow
14 definition, and so that's the reason for the
15 language?

16 COMMISSIONER LEE: Well --

17 CHAIR NUNEZ: Commissioner Lee.

18 COMMISSIONER LEE: -- that, and you don't
19 always know when you -- when you are contacted,
20 what the outcome is going to be. So, you know,
21 they contact you, and you have to respond.

22 I am just saying, look, I don't want to
23 get -- I personally don't want to get hung up
24 on the disproportional benefit. I'm just
25 saying that, look, if you are contacted by the

1 government, which is what this whole provision
2 is about is doing business with the government,
3 and I am just saying if you are forced to do
4 business with the government because the
5 government has contacted you for the purposes
6 of doing business, you have a right to return
7 their phone call, their letter, their e-mail,
8 or whatever without getting hung up in this
9 whole concept of having been in communication
10 with government, because the perception is if
11 the Ethics Commission -- and rightfully so --
12 that when an elected official is in contact
13 with a government agency where they write their
14 budget or they write policy for them, that
15 there's automatically a compromise and that
16 that communication should never happen.

17 And I agree, it should never happen if
18 initiated by the individual elected official.
19 But when the government initiates the contact,
20 then I think you should have an opportunity and
21 a right to respond and defend your property
22 right or your licensure or whatever it may be
23 when the government has contacted you.

24 CHAIR NUNEZ: Commissioner Stargel.

25 COMMISSIONER STARGEL: So to clarify for

1 my purposes, sounds like from Commissioner
2 Carlton's question was on disproportionate
3 benefit, but this will then define it through
4 the Florida Ethics Commission. So we don't
5 know what that's going to mean yet, correct?

6 COMMISSIONER LEE: Yes, sir.

7 CHAIR NUNEZ: Commissioner Lee.

8 COMMISSIONER STARGEL: And I am going to
9 just throw out a scenario that I think I see
10 where you're getting is let's say you have a
11 retail establishment, family-owned business,
12 and somebody comes in and challenges you on
13 your sales tax and say you calculated something
14 wrong and it amounts to tens of thousands of
15 dollars, and you as a Senator pick up the phone
16 and call them back and negotiate it down to
17 \$300.

18 You want to make sure that you've not
19 violated whatever they come up with as a
20 definition of "disproportionate benefit"
21 because you picked up the phone and called them
22 in your role as an officer of that corporation,
23 not in your role as a Senator?

24 COMMISSIONER LEE: That's correct.

25 CHAIR NUNEZ: Additional questions?

1 Additional questions?

2 Is there debate? Is there debate on
3 Commissioner Lee's amendment to the substitute?

4 Commissioner Gaetz, you are recognized in
5 debate.

6 COMMISSIONER GAETZ: Thank you very much,
7 Madam Chair.

8 President Lee's amendment is a perfect
9 example of why in trying to make Proposition 39
10 better in the form that it now appears before
11 you as the substitute amendment, we ensured
12 that the Legislature was authorized and
13 obligated to implement the legislation because,
14 as I tried to explain, we went through and, I
15 mean, legal scholars, as well as those of us
16 who were the unwashed, went through every kind
17 of possible exception or discussion or scenario
18 we could think of and we began to write what I
19 described as a kind of constitutional book of
20 Leviticus to define and prescribe and proscribe
21 everything that we possibly could imagine.

22 This is an example of where it's
23 extraordinarily difficult to -- to anticipate
24 every single scenario, and, therefore, we have
25 given the Legislature the obligation and the

1 authorization to implement this provision
2 should it become part of the Constitution.

3 President Lee is one of my heroes,
4 especially on this issue, but I am afraid
5 that -- that I am troubled by this amendment as
6 it's written.

7 First, it's written into the
8 "Disproportionate Benefit" section of the
9 amendment, and I think that is an area where,
10 although there's been a lot of conversation
11 about other aspects of this proposal, I have
12 found no strong push-back from anybody that we
13 ought to maintain as a -- as a bright line that
14 nobody in public office ought to use their
15 public office to obtain a disproportionate
16 benefit for themselves or their family or their
17 business.

18 To amend that section with President Lee's
19 amendment I think has -- has the wrong effect,
20 and I would return to what Senator Carlton had
21 asked, and that is, is this possibly not drawn
22 to -- to a different section than it might
23 otherwise be drawn to even if you like it?

24 Secondly, the Commission on Ethics, as
25 President Lee has pointed out, will do if this

1 passes, becomes part of the Constitution,
2 rule-making. That rule-making is not an
3 enclosed room, and it's not even in an open
4 room with the Commission on Ethics. They have
5 to go through the administrative rule-making
6 process. So there's plenty of time to provide
7 input into all sorts of scenarios, to ask
8 questions.

9 If a member of a County Commission owns a
10 plumbing supply company and, you know, if --
11 what did my son say about first-year law? If
12 the guy with the horse cart approaches the
13 railroad crossing and. There are all sorts of
14 scenarios that can be brought before the
15 Commission on Ethics as they develop their rule
16 which would be hopefully instructive and as
17 they provide their guidance, and I am sure that
18 members of the Legislature who are here and who
19 are listening and who would be instructed by
20 this constitutional provision will take these
21 questions very seriously as they implement the
22 legislation.

23 Third, if you look at -- at President
24 Lee's language here, it says, "Nothing herein
25 shall preclude a public official from

1 responding to matters." "Matters" is pretty
2 broad. "Matters" could cover a lot of stuff.
3 Matters wherein government has initiated
4 contact with a public officer. And President
5 Lee has given as his example -- and I would
6 agree with him -- that if a licensee authority
7 contacts someone in public office who happens
8 to be a licensee and they want to say you
9 haven't sent in your fee or you've got to fill
10 out the form wrong, that is a very -- a much
11 more limited kind of example than what
12 President Lee has talked about here because he
13 simply said "Matters" -- whatever those might
14 be -- "wherein government" -- or whoever that
15 might be -- "has initiated contact with the
16 public officer."

17 So it is not limited to even those
18 circumstances where the public officer might be
19 the individual being asked about the matter.

20 And so for those reasons, I -- I would
21 respectfully -- I wish we had tomorrow and the
22 next day and the next day, Mr. President, but I
23 would -- if we did, I would respectfully ask
24 you to consider some other approach to this
25 issue other than the one that -- that is before

1 us. And -- and I certainly don't want to
2 characterize this as unfriendly because I know
3 your intention is extraordinarily friendly to
4 this whole subject.

5 I would only say that I think this
6 amendment may be a reason why we tried really
7 hard not to anticipate every scenario, but,
8 rather, to provide constitutional language and
9 then give implementing authority to the
10 Commission on Ethics and the Legislature. So I
11 would -- I would ask you simply to bear that in
12 mind.

13 CHAIR NUNEZ: Additional debate?
14 Additional debate?

15 Commissioner Lee, you are recognized to
16 close on your amendment to the substitute.

17 COMMISSIONER LEE: Thank you, Madam Chair.
18 And if I might, with your indulgence, because
19 the better path here might be to withdraw the
20 amendment. I can always file this -- it seems
21 like it would be germane to the Greyhound
22 racing ban. So I can always file a fair --
23 I've got Commissioner Martinez on board. But,
24 no, in all sincerity, this might be an
25 opportunity for us to get just something

1 briefly on the record here because this is a
2 proposal that will not be considered by the
3 Legislature. It will be considered by the
4 Ethics Commission, and they will take direction
5 from what it is our intentions were here.

6 So from a constitutional intent purposes,
7 if you don't mind, Madam Chair, I would, in
8 closing, just like to ask President Gaetz a
9 question, if I might, if he will yield and --

10 CHAIR NUNEZ: Commissioner Gaetz, will you
11 yield?

12 COMMISSIONER GAETZ: Of course I will
13 yield to President Lee.

14 COMMISSIONER LEE: So notwithstanding
15 disproportionate gain, is it the intention of
16 what you're doing here, knowing that we have a
17 citizen Legislature where most of us in -- in
18 our part-time officials who are actively
19 engaged in multiple businesses, is it your
20 intention here to preclude elected officials
21 from responding to communications relating to
22 licensure, tax matters, or a condemnation of
23 their property, God forbid, in the event the
24 government contacts them for those purposes?

25 CHAIR NUNEZ: Commissioner Gaetz.

1 COMMISSIONER GAETZ: Thank you, Madam
2 Speaker.

3 No, President Lee, it is not my intention.
4 It would be a misreading of this language and
5 this constitutional provision for any
6 commission, or any Legislature, for that
7 matter, to attempt to preclude an elected
8 official from responding to a governmental body
9 when that body inquires after that individual's
10 business or compliance by that individual or
11 his business with governmental regulations or
12 with any kind of licensure requirements of any
13 sort.

14 COMMISSIONER LEE: And would -- would you
15 see that including a taking of their property
16 potentially as --

17 CHAIR NUNEZ: Commissioner Gaetz.

18 COMMISSIONER LEE: -- eminent domain?

19 COMMISSIONER GAETZ: Thank you, Madam
20 Speaker.

21 Yes, sir, Mr. President, especially the
22 taking of any property or commodity in which or
23 any service in which they might have a property
24 interest.

25 COMMISSIONER LEE: Thank you for that,

1 Madam Chair. I will withdraw the amendment.

2 Thank you.

3 CHAIR NUNEZ: Show the late-filed
4 amendment by Commissioner Lee, 971642,
5 withdrawn.

6 We are now back on the substitute
7 amendment by Commissioner Gaetz. Is there
8 debate? Is there debate on the substitute
9 amendment, Bar Code 333990?

10 Seeing no debate, Commissioner Gaetz, you
11 are recognized to close on your substitute
12 amendment.

13 COMMISSIONER GAETZ: Thank you very much,
14 Madam Chair, and thank you, President Lee, for
15 your courtesy, and I fully understand your
16 concern and share it.

17 Madam Chair and Commissioners, in the
18 usual business of government and politics,
19 there's not much time or energy or space for
20 discussions or initiatives having to do with
21 ethics. The Ethics Committee of the House or
22 the Senate are not exactly A appointments.

23 There are no fundraisers tonight at the
24 Governor's Club for ethics. And I would
25 suspect that President Lee is still waiting for

1 the parade to honor him for the gift ban. That
2 probably hasn't happened yet, maybe it's still
3 being planned. That's why I am so grateful to
4 this Commission for doing for politics what
5 politicians themselves, and I include myself,
6 would not do or cannot do.

7 Chairman Coxe devoted three meetings of
8 our Ethics and Elections Committee to banging
9 around ideas about how to craft an ethics
10 provision until we got it to a place where we
11 felt we could move it on to the next committee.

12 Critics on and off of this floor have made
13 our proposal better because they have pushed
14 it, because they uphold it, and because they
15 have critiqued it. Nine co-sponsors have lent
16 their names and their ideas to this proposal,
17 and Chairman Beruff could not have been clearer
18 in his support when he filed an amendment to
19 restore Proposition 39 to the position that it
20 was in before the Style and Drafting Committee
21 meeting.

22 Commissioner Sprowls, who as someone
23 earlier said will be Speaker of the House of
24 Representatives of our state, represents the
25 future of Florida. Some of us, like me,

1 represent the past. And my wife said, "God
2 willing, this will be the last speech you give
3 on the floor of the Senate." But Commissioner
4 Sprowls represents the future of Florida, and
5 he has been a full partner in this effort,
6 constantly offering suggestions for doing it
7 better, making it tighter, making it more
8 enforceable, and applying the high standards of
9 Speaker Corcoran's House Ethics Rules to the
10 work of our Constitutional Commission.

11 One of our state's newspapers
12 editorialized this past week that we were
13 trying to do too much. And in the same
14 editorial, they said we were not doing enough.
15 And that reassured me. State and local
16 politicians have called me or come to see me,
17 troubled that their present activities or
18 future career plans might be in jeopardy, and
19 that reassured me.

20 Everybody is for ethics until it knocks on
21 our door. And as Chairman Beruff said to me on
22 the phone a couple of days ago, "Don,
23 somewhere, somebody in Florida is already
24 searching for a side door." And somewhere I
25 hope that somebody else will be bold enough to

1 nail that door shut.

2 I grew up in my father's house believing
3 that public service is service, and that
4 service very often is sacrifice.

5 We are not proposing here, those of us
6 sponsoring this measure, we are not proposing
7 ethical standards to meet the needs of
8 politicians or for their convenience. The goal
9 of this proposal is that politicians will need
10 to meet the ethical standards set by the people
11 of Florida.

12 We are told that if this passes today and
13 if it's approved by the voters, Florida would
14 establish in its Constitution the highest
15 ethical standards in the nation for personal
16 conduct in public office. That's not a bad
17 thing to be remembered for.

18 CHAIR NUNEZ: It's been suggested that
19 there is an absence of quorum. Will the
20 secretary please unlock the board and members
21 record your presence.

22 Quorum call. Quorum call. Will the
23 Commissioners please record their presence?

24 The secretary will lock the machine and
25 announce the presence of a quorum.

1 THE SECRETARY: A quorum present, Madam
2 Chair.

3 CHAIR NUNEZ: We will now vote on
4 Commissioner Gaetz' substitute amendment. All
5 in favor, signify by saying yea.

6 (Chorus of yea's.)

7 CHAIR NUNEZ: Opposed, nay?
8 Show the amendment is adopted.

9 We are now on the revision as amended.
10 Are there questions on the revision as amended?

11 Is there debate? Question or debate?
12 Yes, Commissioner Kruppenbacher.

13 COMMISSIONER KRUPPENBACHER: Do you agree
14 with your wife that this will be the last time
15 you speak on the Senate floor?

16 CHAIR NUNEZ: Commissioner Gaetz.

17 COMMISSIONER GAETZ: Yes, there's only
18 room for one outrageous Gaetz in politics at a
19 time. And that position has already been
20 taken, it seems to me.

21 (Whereupon, Volume III continues on page
22 317.)

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 163 through 315 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 22nd day of May, 2018.

CLARA C. ROTRUCK

Notary Public

State of Florida at Large

Commission Expires:

November 13, 2018

Commission NO.: FF 174037