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CONSTITUTION REVISION COMMISSION

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

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

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

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

15 CHAIRMAN BERUFF: All right.

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

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

1 would be now. Please stand. Thank you.

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

11 (Brief recess taken.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 I hope you think like I do and will vote

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

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

8           Commissioner -- Commissioner Joyner,  
9           please.

10          COMMISSIONER JOYNER: Too late.

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

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

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

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

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

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

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

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

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

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

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

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

11          CHAIRMAN BERUFF: Commissioner Plymale.

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

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

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

5 CHAIRMAN BERUFF: Commissioner Joyner is  
6 recognized.

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

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

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

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

4           CHAIRMAN BERUFF: Commissioner Joyner is  
5           recognized.

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

13          COMMISSIONER PLYMALE: That is right.

14          CHAIRMAN BERUFF: Commissioner Plymale.

15          COMMISSIONER PLYMALE: I will try.

16          CHAIRMAN BERUFF: There are students up  
17          there.

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

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

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

7           CHAIRMAN BERUFF: Commissioner Joyner.

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

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

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

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

7 COMMISSIONER PLYMALE: No, that is wrong.

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

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

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

7 CHAIRMAN BERUFF: Commissioner Cerio is  
8 recognized.

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

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

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

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

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

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

21 CHAIRMAN BERUFF: Commissioner Cerio.

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

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

13 COMMISSIONER PLYMALE: Okay.

14 CHAIRMAN BERUFF: Commissioner Plymale.

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

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

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

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

25 COMMISSIONER SMITH: Thank you, Mr. Chair.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 CHAIRMAN BERUFF: Commissioner Schifino is  
6 recognized.

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

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

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

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

4 CHAIRMAN BERUFF: Commissioner Martinez is  
5 recognized.

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

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

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

1 it was assigned.

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

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

18 CHAIRMAN BERUFF: Commissioner Lester.

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

25 It seems to me that in most avenues in

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

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

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

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

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

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

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

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

1 vegetarian, however you want to register.

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

8 CHAIRMAN BERUFF: Commissioner Solari.

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

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

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

1 that their fundamental right to vote is  
2 abridged.

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

13 CHAIRMAN BERUFF: Commissioner Stemberger  
14 is recognized.

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

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

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

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

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

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

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

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

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

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

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

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

1 Commission.

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

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

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

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

1 Commissioners, please vote.

2 Has everybody voted?

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

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

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

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

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

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

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

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

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

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

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

19 Commissioner Smith is recognized.

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

24 CHAIRMAN BERUFF: Commissioner Nunez.

25 COMMISSIONER NUNEZ: Thank you,

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

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

11 Commissioner Lee, please present your  
12 Amendment.

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

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

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

6           CHAIRMAN BERUFF: Commissioner Nunez is  
7           recognized.

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

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

14          COMMISSIONER NUNEZ: Yes, sir.

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

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

25          The amendment would revise a different

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

3 CHAIRMAN BERUFF: Commissioner Lee is  
4 recognized.

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

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

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

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

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

25 CHAIRMAN BERUFF: All of the amendments

1 are temporarily postponed.

2 COMMISSIONER CERIO: Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4           CHAIRMAN BERUFF: Commissioner Martinez is  
5 recognized.

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

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

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

24           COMMISSIONER NUNEZ: That is correct.

25           COMMISSIONER MARTINEZ: Why would we want

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

5 CHAIRMAN BERUFF: Commissioner --

6 COMMISSIONER MARTINEZ: I am sorry.

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

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

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

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

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

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

4 CHAIRMAN BERUFF: All right.

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

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

17 CHAIRMAN BERUFF: Commissioner Diaz is  
18 recognized.

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

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

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

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

3 CHAIRMAN BERUFF: Commissioner Timmann.

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

8 CHAIRMAN BERUFF: Commissioner Diaz.

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

15 CHAIRMAN BERUFF: Commissioner Timmann.

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

19 COMMISSIONER DIAZ: I believe --

20 CHAIRMAN BERUFF: Commissioner Diaz.

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

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

5 CHAIRMAN BERUFF: Commissioner Timmann.

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

14 Thank you.

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

18 Commissioner Smith on debate.

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

25 So you got citizens in Broward County

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

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

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

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

23 You are going to just obliterate the  
24 Broward County home rule when it comes to  
25 creating a whole new form of government, a

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

12 CHAIRMAN BERUFF: Further debate?

13 Commissioner Kruppenbacher is recognized.

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

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

1 county departments. So they are basically  
2 underneath us, right. And let's put term  
3 limits.

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

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

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

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

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

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

23           Now, I represent every type of local  
24 government. I have been a lawyer 40 years so I  
25 qualify, Commissioner Schifino, for four, four

1 Circuit Court's judgeships, all right, and I  
2 would deal with your traffic record quickly.

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

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

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

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

6           CHAIRMAN BERUFF: Commissioner Stemberger  
7 is recognized.

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

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

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

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

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

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

15 CHAIRMAN BERUFF: Commissioner Martinez is  
16 recognized.

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

25 We lost that, and took it up to the Third

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

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

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

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

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

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

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

16 CHAIRMAN BERUFF: Commissioner Lester is  
17 recognized.

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

1 of those officials. So I don't deal personally  
2 with, with the government like Miami-Dade.

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

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

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

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

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

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

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

24 I am going to vote against it, but I do  
25 appreciate the arguments on both sides of it.

1           CHAIRMAN BERUFF: Commissioner Coxe is  
2 recognized.

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

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

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

25           But in looking at this proposal, the

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

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

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

1 government. We know what we are doing.

2 Thank you.

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

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

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

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

25 I agree that home rule is important, and

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

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

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

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

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

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

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

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

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

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

1 to act?

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

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

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

23 As everybody in this room has one or two  
24 or three of these phones, you know what it is  
25 like to have consistently people ringing,

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

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

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

12 Commissioner Donalds is recognized.

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

23 I support this proposal because if they do  
24 become a charter county down the road I do not  
25 want, among all of the provisions that could be

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

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

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

23 The Supervisor of Elections must be the  
24 top authority for elections laws in the county.  
25 They have to hold those County Commissioners

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

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

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

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

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

1 consider. Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25                 COMMISSIONER TIMMANN: I would,

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

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

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

22 Some of these charter review -- the  
23 Charter Review Boards are commissions, are  
24 appointed by the County Commissioners. They  
25 have a goal in mind before they start that

1 whole process.

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

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

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

22           Do they want to elect their Sheriff for  
23 independent investigations in law enforcement?  
24 Do they want to elect their Property Appraiser  
25 for these independent assessments on which

1 their property and residential taxes are based?

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

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

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

23 I am going to quote from the Keep It Local  
24 Florida Newsletter. This is all about home  
25 rule. This is what their newsletter is for. I

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

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

13 Thank you.

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

17 Has everybody voted?

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

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

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

1           We will now take up Proposal 39.

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

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

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

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

1           should be more transparent, less  
2           self-interested and more ethical.

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

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

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

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

25          Proposal 39 draws a bright line. You

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

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

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

22           That entangles public office and lobbying  
23 too closely and too soon. This proposal hold  
24 bans statewide elected officials and state  
25 agency heads from lobbying the Legislature, the

1 Cabinet, or the agency they headed for six  
2 years after they leave office.

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

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

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

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

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

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

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

23           The proposal directs the Commission on  
24 Ethics to define requisite intent and  
25 disproportionate benefit and provides that

1 penalties would be established in law.

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

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

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

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

21 COMMISSIONER SMITH: Thank you.  
22 Commissioner Gaetz, could you briefly explain  
23 the difference between say a lobbyist and a  
24 land use lawyer that may represent a client in  
25 front of a planning and zoning board or some

1 type of local quasi judicial thing that they, a  
2 legislator who may be a land use lawyer?

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

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

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

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

23 But if you are, if you are a paid  
24 lobbyist, if you are paid compensation to  
25 influence public policy or to seek an

1           appropriation, you would not be able to do that  
2           at the same time that you hold public office.

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

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

14          CHAIRMAN BERUFF: Recognize Commissioner  
15          Gaetz.

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

24          An amendment which we will get to, makes  
25          clear that that includes a quasi judicial body

1 such as the Public Service Commission, or a  
2 DOAH hearing.

3 CHAIRMAN BERUFF: Commissioner Rouson.

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

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

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

20 If you are a private attorney and you are  
21 appearing before a judicial tribunal, that is  
22 another matter, having been a School Board  
23 member. But if you -- I am a former School  
24 Board member, and when I left the School Board,  
25 I would not if this proposal became law, I

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

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

19 CHAIRMAN BERUFF: Commissioner Rouson.

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

22 CHAIRMAN BERUFF: Commissioner Rouson.

23 COMMISSIONER ROUSON: Thank you very much,  
24 Mr. Chair. And likewise, a Mayor in either a  
25 strong Mayor form of government or a weak Mayor

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

5 CHAIRMAN BERUFF: Commissioner Gaetz.

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

9 CHAIRMAN BERUFF: Commissioner Rouson.

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

14 CHAIRMAN BERUFF: Commissioner Gaetz.

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

1           turned around and became their lobbyist to his  
2           former colleagues.

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

10                    CHAIRMAN BERUFF:  Further questions on  
11           Proposal 39?

12                    Commissioner Diaz is recognized.

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

17                    CHAIRMAN BERUFF:  Commissioner Gaetz.

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

1           CHAIRMAN BERUFF: Commissioner Diaz.

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

7           CHAIRMAN BERUFF: Commissioner Gaetz.

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

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

1 who can appear as a lobbyist before them.

2 CHAIRMAN BERUFF: Commissioner Diaz.

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

7 CHAIRMAN BERUFF: Commissioner Gaetz.

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

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

22 CHAIRMAN BERUFF: Commissioner Diaz.

23 COMMISSIONER DIAZ: And final question. I  
24 am sure you went through this exercise in your  
25 head. Can you give us the cost benefit

1 analysis of the chilling effect that this might  
2 have on some folks not running for office  
3 because of the fears that they might have that  
4 this might impair their ability to have a job  
5 post their service?

6 CHAIRMAN BERUFF: Commissioner Gaetz.

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

19 Those who believe that that ought to be on  
20 the plus side of the cost benefit analysis  
21 ought to vote against this underlying proposal.  
22 In my view, we ought to take a stand in the  
23 state of Florida and say you are either a  
24 lobbyist or you are an official. You should  
25 not seek disproportionate benefit from being in

1 public office. It is an honor, it is a  
2 privilege, it is an obligation. It is not an  
3 opportunity to monetize for private gain.

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

14 CHAIRMAN BERUFF: Commissioner Smith is  
15 recognized.

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

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

8           CHAIRMAN BERUFF: Commissioner Gaetz.

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

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

1 all of the constitutional changes we made, none  
2 of them needed to be in the Constitution.

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

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

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

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

7           CHAIRMAN BERUFF: Commissioner Stemberger  
8           is recognized.

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

15          CHAIRMAN BERUFF: Commissioner Gaetz.

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

18          CHAIRMAN BERUFF: Commissioner Stemberger.

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

23          CHAIRMAN BERUFF: Commissioner Gaetz.

24          COMMISSIONER GAETZ: Commissioner  
25          Stemberger, to be clear, the two-year lobby ban

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

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

11 CHAIRMAN BERUFF: Commissioner Stemberger.

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

16 CHAIRMAN BERUFF: Commissioner Gaetz.

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

1 some money, and frankly, I find that to be  
2 morally reprehensible.

3 CHAIRMAN BERUFF: Commissioner Stemberger.

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

10 CHAIRMAN BERUFF: Commissioner Gaetz.

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

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

25 CHAIRMAN BERUFF: Commissioner Sprowls is

1 recognized.

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

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

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

4           CHAIRMAN BERUFF: Commissioner Gaetz.

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

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

16          Commissioner Lee is recognized.

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

21           I am just now kind of looking through the  
22 staff analysis and the language here, and there  
23 may not be an answer to this, and I may have  
24 missed it if there is, but I see that it takes  
25 effect in 2020, and so can -- it would help to

1 be a lawyer, but this would have retroactive  
2 application to people that retired in 2015 or  
3 would it start for people that retire in 2020?

4 CHAIRMAN BERUFF: Commissioner Gaetz.

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

13 CHAIRMAN BERUFF: Commissioner Joyner is  
14 recognized.

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

20 CHAIRMAN BERUFF: Commissioner Gaetz.

21 COMMISSIONER GAETZ: Thank you,  
22 Mr. Chairman. Specifically, the revolving door  
23 provision emanates from the Grand Jury and --  
24 and also there is a -- a reference in the Grand  
25 Jury to disproportionate gain. So I would say

1 probably as to the specific Grand Jury report  
2 that you are referring to, those provisions.

3 CHAIRMAN BERUFF: Commissioner Joyner.

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

10 CHAIRMAN BERUFF: Commissioner Gaetz.

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

20 CHAIRMAN BERUFF: Commissioner Joyner.

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

1 the Secretary.

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

8 CHAIRMAN BERUFF: Commissioner Gaetz.

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

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

22 CHAIRMAN BERUFF: Commissioner Joyner.

23 COMMISSIONER JOYNER: Thank you,  
24 Mr. Chair. So your proposal would restrict the  
25 persons at the highest level, but the assistant

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

6 CHAIRMAN BERUFF: Commissioner Gaetz.

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

15 CHAIRMAN BERUFF: Commissioner Joyner.

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

19 CHAIRMAN BERUFF: Commissioner Gaetz.

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

1 one of the houses of the Legislature to go to a  
2 six-year lobby ban.

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

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

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

20 CHAIRMAN BERUFF: Senator Joyner.

21 COMMISSIONER JOYNER: That is it.

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

25 Proceed, Commissioner Gaetz.

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

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

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

12          CHAIRMAN BERUFF: Okay.

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

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

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

24                 This change addresses concerned raised  
25 during public testimony to ensure that public

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

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

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

23 Additionally, it directs the Legislature  
24 to prescribe penalties for a violation of this  
25 prohibition. And then third, the substitute

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

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

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

1 session. And that is the amendment.

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

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

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

25 I had -- I mentioned that I had a series

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

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

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

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

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

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

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

1 their community.

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

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

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

24 There is an evolution in the Legislature  
25 where Bills evolve and things change very

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

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

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

25 And so what we are doing here is basically

1 allowing local governments to continue to hire  
2 lobbyists for the purposes of public policy,  
3 but not for the purposes of obtaining a  
4 specific appropriation for -- for that -- that  
5 particular entity.

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

9 CHAIRMAN BERUFF: Commissioner Smith is  
10 recognized.

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

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

21 CHAIRMAN BERUFF: Commissioner Lee.

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

1 then happens when that lobbyist is hired, paid  
2 that big fee.

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

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

15 CHAIRMAN BERUFF: Commissioner Smith.

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

1 door to help get appropriations for those  
2 counties?

3 CHAIRMAN BERUFF: Commissioner Lee.

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

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

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

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

7 CHAIRMAN BERUFF: Further questions on the  
8 amendment?

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

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

20 CHAIRMAN BERUFF: Commissioner Lee.

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

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

7 CHAIRMAN BERUFF: Commissioner Plymale.

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

11 CHAIRMAN BERUFF: Me, too.

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

16 CHAIRMAN BERUFF: Commissioner Lee.

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

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

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

5           COMMISSIONER PLYMALE:   Okay, thank you.

6           CHAIRMAN BERUFF:   Commissioner Solari is  
7           recognized.

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

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

16          CHAIRMAN BERUFF:   Commissioner Lee.

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

1 League of Cities, as are the Mayors.

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

9 CHAIRMAN BERUFF: Commissioner Solari.

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

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

24 CHAIRMAN BERUFF: Commissioner Lee.

25 COMMISSIONER LEE: I do not believe it

1 would, and I am quite familiar with that  
2 particular proposal because it really emanated  
3 out of a committee that I chair in the Senate,  
4 and, and as you know, the high speed rail  
5 affects a lot of -- it affects a broad amount  
6 from Miami north to the east coast and will  
7 ultimately turn the corner and come through the  
8 balance of the state.

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

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

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

21 A VOICE: I will withdraw.

22 CHAIRMAN BERUFF: Do we need to -- we are  
23 going to take up the amendment that  
24 Commissioner Lee, the amendment to the  
25 amendment on a voice vote to the substitute

1 amendment, further complicate things. So all  
2 those in -- what, what, what.

3 A VOICE: Debate.

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

6 Commissioner Smith.

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

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

25 It may seem unseemly to you, but it is

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

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

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

25          I don't know how many counties Senator

1 Gaetz represent or how many cities, but it is  
2 hard for him even, even as great of a  
3 representative of those communities, it is hard  
4 for him to follow every single appropriations  
5 for every single city that he represented.

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

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

24 You can paint it any unseemly light you  
25 want but that is the reality of the budgetary

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

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

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

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

24 What this addresses is the unseemly, is  
25 the contract lobbyist and the money that has so

1           infused this system that this good package is  
2           trying to address.

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

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

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

24                   That is what this seeks to address,  
25          consensus. This thing would pull off the

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

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

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

19 We saw what happened when President Lee  
20 tried to do it when he was Senate President.  
21 So I just -- to the extent that this package  
22 has been put together in an attempt to change  
23 the culture up here, I would just urge, look,  
24 there may be some little, some little counties  
25 maybe who don't have the juice and who want to

1 hire a contract lobbyist, but I would submit  
2 that it is necessary to look at the greater  
3 good and what changes this will do for the  
4 entire process.

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

11 CHAIRMAN BERUFF: Commissioner Joyner.

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

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

25 It is -- what you want to do is utopia,

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

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

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

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

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

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

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

24 I know that everyone here has noble  
25 intentions, but you have to consider

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

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

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

23 So just think about it as you decide how  
24 you are going to vote on this proposal, but  
25 this amendment will wreak havoc on some

1 counties and cities in this state.

2 CHAIRMAN BERUFF: Commissioner Diaz is  
3 recognized.

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

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

1 governments, that ultimately inured to the  
2 benefits of the constituents.

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

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

23 But what we are doing here, is we put this  
24 into the Constitution there is going to be  
25 reverberations for the next 20 years, and the

1           Legislature won't be able to fix the mess that  
2           we created.

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

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

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

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

19          I am in sympathy with what President Lee  
20          wants to do. He was the first modern presiding  
21          officer in the history of Florida to take the  
22          kind of stand that he took about the  
23          relationship with money and politics, and I  
24          respect him. I am going to vote for his  
25          amendment, and I don't think I am betraying a

1 confidence when I say that he and I have  
2 discussed the fact that this opens some  
3 additional doors, and I hope that those who  
4 will support his amendment will do so for the  
5 reasons that he has articulated.

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

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

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

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

1 recession, because the money goes pouring in to  
2 the counties that have the large populations,  
3 the large budgets, that hire the big name  
4 lobbyists.

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

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

25 I, you know, I realize I was only going to

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

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

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

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

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

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

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

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

25          CHAIRMAN BERUFF: Got a promotion,

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

4 (Chorus of yea's).

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

7 (Chorus of nay's).

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

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

13 CHAIRMAN BERUFF: The amendment moves  
14 forward.

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

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

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

25 (Chorus of yea's).

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

3           (Chorus of nay's)

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

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

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

14          COMMISSIONER LEE: Yes.

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

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

25                 But I was on the Florida Commission on

1 Ethics, and here is what I learned sitting on  
2 that Commission.

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

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

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

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

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

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

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

21 COMMISSIONER SCHIFINO: Thank you, Chair  
22 Beruff. Very briefly, I listened attentively  
23 to Senator Lee's amendment and the entire  
24 debate. At the end of that debate, I was  
25 compelled to vote no on that amendment.

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

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

19           CHAIRMAN BERUFF: Commissioner Rouson.

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

25           That would have set a standard, a high

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

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

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

24 CHAIRMAN BERUFF: Commissioner Nunez is  
25 recognized.

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

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

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

20           CHAIRMAN BERUFF: Commissioner Solari.

21           COMMISSIONER SOLARI: Thank you, Mr.  
22 Chairman. I am happy to say today that I will  
23 never be a paid lobbyist, but it seems to me  
24 that in our society we have spent more and more  
25 time trying to micro-manage behavior with no

1 positive results. Republic needs virtue,  
2 adherence to government-mandated statutes is  
3 not virtue. Thank you.

4 CHAIRMAN BERUFF: Commissioner Joyner is  
5 recognized.

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

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

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

24 What we really need to be trying to figure  
25 out, is how can we get people up here who will

1 do the right thing. But the system is  
2 entrenched and the question is, in trying to  
3 make it right is this the right thing to do,  
4 the right way to do it.

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

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

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

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

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

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

24                   CHAIRMAN BERUFF: Further debate on 39 as  
25          amended? Commissioner Coxe is recognized.

1           COMMISSIONER COXE: Thank you, Mr. Chair.  
2 I chaired the Elections Committee, participated  
3 in the debate that was extensive in support of  
4 Commissioner Gaetz all of the way along.

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

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

19           CHAIRMAN BERUFF: Commissioner Lee is  
20 recognized.

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

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

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

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

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

1 they couldn't get a job, but they could sure  
2 find one once they are a legislator.

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

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

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

1 money, I am not going to shove this down  
2 anybody's throat. That is not the right way to  
3 roll.

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

12 Thank you, Mr. Chairman.

13 CHAIRMAN BERUFF: Commissioner Gainey is  
14 recognized.

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

25 CHAIRMAN BERUFF: Further debate? I don't

1 see any hands for further debate on 39 as  
2 amended.

3 Would you like to close, Commissioner  
4 Gaetz?

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

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

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

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

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

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

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

24          It prohibits public officials from  
25          misusing the public trust to obtain

1 disproportionate benefits for themselves and  
2 their families and their business interests at  
3 all levels. And so this proposal does, indeed,  
4 drill down.

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

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

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

25 I hope you will vote for higher ethical

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

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

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

25 CHAIRMAN BERUFF: Secretary, please unlock

1 the board. Commissioners, has everybody voted?  
2 Please lock the board and announce the results.

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

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

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

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

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

20 We are now going to take up Proposal 103.

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

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

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

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

22           And Mr. Chairman, Proposal 103 addresses  
23 Article III, Section 3, and specifically  
24 addresses the sessions of the Legislature, and  
25 within Representative Nunez's proposal, which

1 she is specifically trying to do, is move the  
2 legislative session from March or another time  
3 as set by the Legislature to specifically in  
4 the Constitution requiring session to be in  
5 January.

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

13 CHAIRMAN BERUFF: The shorter the better.

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

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

1 the same subject matter.

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

6 That is my recommendation, Mr. Chairman.

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

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

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

20 Thank you.

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

25 COMMISSIONER JOYNER: Mr. Chairman, I

1 would like the bar code for the two amendments  
2 that Senator Lee withdrew.

3 CHAIRMAN BERUFF: Commissioner Lee.

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

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

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

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

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

25 THE SECRETARY: Thirty-two yea's, one nay,

1 Mr. Chair.

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

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

9 Thank you.

10 (Brief recess taken.)

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

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

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

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

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

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

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

24 We have the opportunity to look forward 20  
25 years, and I know that we are wrestling with

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

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

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

1 please, that amendment. And so I just want to  
2 clear that from the beginning.

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

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

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

25 We have spoken a lot about what belongs in

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

6 Isn't it better if more of our citizens  
7 are weighing in on these decisions?

8 Commissioners, I hope, too, that it will  
9 encourage a more informed and more active  
10 electorate, and ultimately, if we adopt this,  
11 it will provide more consistency in the Florida  
12 Constitution. I would be happy to answer any  
13 questions you might have at this time.

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

16 COMMISSIONER KEISER: Yes, Mr. Chairman.

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

19 COMMISSIONER KEISER: Yes.

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

24 Commissioner Keiser, do we have questions  
25 for Commissioner Keiser's Proposal P-97 as it

1 currently stands?

2 Commissioner Cerio.

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

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

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

18 COMMISSIONER CERIO: It would be a  
19 million.

20 COMMISSIONER KEISER: A million, yes.

21 COMMISSIONER CERIO: Okay.

22 CHAIRMAN BERUFF: Commissioner Cerio.

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

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

6           COMMISSIONER CERIO: Okay, thank you.

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

9           CHAIRMAN BERUFF: Commissioner Keiser.

10          COMMISSIONER KEISER: Mr. Chair.

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

14          COMMISSIONER KEISER: Yes, sir.

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

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

23          CHAIRMAN BERUFF: Commissioner Keiser.

24          COMMISSIONER KEISER: Commissioner  
25 Schifino, thank you. It is an excellent

1 question. Currently for a taxing amendment it  
2 requires a two-thirds over all those voters  
3 voting in the election, not registered voters,  
4 Commissioners, but all of those voting in the  
5 election.

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

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

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

22 COMMISSIONER KEISER: The formula, yes.

23 COMMISSIONER SCHIFINO: Yes.

24 COMMISSIONER KEISER: And the equation.

25 COMMISSIONER SCHIFINO: Right.

1           COMMISSIONER KEISER: Go ahead.

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

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

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

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

1 importance that will affect their lives if they  
2 pass, whether they vote on them or not.

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

6 CHAIRMAN BERUFF: Commissioner Carlton.

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

15 COMMISSIONER KEISER: Mr. Chairman?

16 CHAIRMAN BERUFF: Commissioner Keiser.

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

19 COMMISSIONER CARLTON: A follow up.

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

24 CHAIRMAN BERUFF: Commissioner Keiser.

25 COMMISSIONER KEISER: Thank you for the

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

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

15 CHAIRMAN BERUFF: Question. Commissioner  
16 Coxe.

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

20 COMMISSIONER KEISER: Right.

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

25 COMMISSIONER KEISER: There are other

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

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

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

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

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

24 COMMISSIONER KEISER: I am not aware of  
25 another state that is higher.

1           CHAIRMAN BERUFF: Commissioner Plymale is  
2 recognized.

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

9           CHAIRMAN BERUFF: Commissioner.

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

12          CHAIRMAN BERUFF: Commissioner Keiser.

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

16          CHAIRMAN BERUFF: Commissioner Plymale.

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

19          COMMISSIONER KEISER: Right.

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

25          COMMISSIONER KEISER: Yes.

1           CHAIRMAN BERUFF: Commissioner Keiser.

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

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

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

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

25           COMMISSIONER KEISER: Thanks, certainly.

1           CHAIRMAN BERUFF: Commissioner Lee is  
2 recognized.

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

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

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

19           CHAIRMAN BERUFF: Commissioner Keiser.

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

25           What I can say is that we can look back 12

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

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

19 CHAIRMAN BERUFF: Commissioner Lee.

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

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

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

10 COMMISSIONER LEE: Okay, thank you.

11 COMMISSIONER KEISER: Thank you.

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

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

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

23 Commissioner Keiser, I have two questions:  
24 The 60 percent vote on the total turnout does  
25 not affect simple majority in political races,

1 does it?

2 COMMISSIONER KEISER: Can you --

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

5 COMMISSIONER KEISER: No, absolutely  
6 correct.

7 CHAIRMAN BERUFF: Okay.

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

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

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

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

19 COMMISSIONER KARLINSKY: Commissioner  
20 Beruff, you are recognized.

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

23 So the -- the -- what is the result as  
24 Commissioner Carlton earlier was alluding to,  
25 of the under, you got Senator Smith against

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

7 COMMISSIONER KEISER: So --

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

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

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

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

24 COMMISSIONER KEISER: No.

25 COMMISSIONER KARLINSKY: Commissioner

1 Keiser.

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

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

6 COMMISSIONER KARLINSKY: Commissioner  
7 Solari, did you have a question? Commissioner  
8 Gainey, do you?

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

17 CHAIRMAN KARLINSKY: Commissioner Keiser.

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

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

22 COMMISSIONER CERIO: No question.

23 CHAIRMAN KARLINSKY: Any further  
24 questions?

25 Commissioner Joyner.

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

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

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

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

22           We have heard a lot from the public about  
23 this particular issue. Well, I just thought it  
24 would be a good example, Mr. Chair. Okay, so  
25 -- so if 100 people are very concerned about

1 greyhound racing and the other issues we have  
2 heard as it relates to that issue, and I want  
3 the Commission, the sponsors to have the  
4 opportunity.

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

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

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

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

23 But if I understand it correctly, if I am  
24 committed to going to vote because I am  
25 determined to vote in this particular election

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

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

10 CHAIRMAN KARLINSKY: Commissioner Keiser.

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

22 Now, under my proposal, yes, that would be  
23 a default would be not to change the  
24 Constitution because that would be a no vote.  
25 But I voted on everything else. So I guess for

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

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

16 CHAIRMAN KARLINSKY: No problem.  
17 Commissioner Schifino, you are recognized.

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

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

25 COMMISSIONER JOYNER: So are you saying

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

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

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

1           CHAIRMAN KARLINSKY: Commissioner Joyner.

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

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

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

21           COMMISSIONER KEISER: Mr. Chair,  
22 Commissioner, thank you. What I know of that  
23 initiative is it was brought forward by the  
24 citizens of Florida and they said this is the  
25 way we want it. This matters enough to us, we

1 need to hear more people. I don't want just a  
2 few people weighing in on my taxes.

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

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

13 CHAIRMAN KARLINSKY: Further questions?  
14 Commissioner Schifino.

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

17 CHAIRMAN KARLINSKY: No, we have an  
18 amendment. Any further questions? All right,  
19 there is a late-filed amendment, 611438.

20 Okay. We have to take up Amendment  
21 435946, Commissioner Carlton, you are  
22 recognized to explain your amendment.

23 COMMISSIONER CARLTON: Yes.

24 CHAIRMAN KARLINSKY: 435946?

25 COMMISSIONER CARLTON: Yes, can I just

1 temporarily pass that one for a moment because  
2 we have another amendment that --

3 CHAIRMAN KARLINSKY: So the late-filed  
4 611438?

5 COMMISSIONER CARLTON: Correct.

6 CHAIRMAN KARLINSKY: Okay, do we need a --

7 COMMISSIONER CARLTON: Yes, so with the  
8 Chair's indulgence, and I do not like being the  
9 test case on the late-filed amendments, but  
10 here it goes.

11 We have been working on some language for  
12 this amendment, and Commissioner Keiser was  
13 unsure which way she was going to go, if she  
14 was going to go with her original proposal, she  
15 had a strike everything amendment.

16 And so I had drawn the amendments to  
17 several different proposals and now that she  
18 has made up her mind, this is the bar code,  
19 611438. So, Mr. Chairman, with the permission  
20 of two-thirds of the body I would ask that it  
21 be allowed to be introduced.

22 CHAIRMAN KARLINSKY: Thank you,  
23 Commissioner Carlton. We will now vote on  
24 whether to consider the late-filed amendment.  
25 All in favor, vote yea.

1 (Chorus of yea's).

2 CHAIRMAN KARLINSKY: Opposed? Show the  
3 amendment adopted. Commissioner Carlton -- or  
4 show the amendment considered. I got a lot of  
5 power up here as Chair. So Commissioner  
6 Carlton, please explain Amendment 611438.

7 COMMISSIONER CARLTON: On the amendment,  
8 thank you. Thank you, Mr. Chairman. So to the  
9 amendment that is before you, again it is  
10 because I know it is a little confusing and you  
11 got two different colors of pink. This is  
12 611438, drawn properly to the proposal as  
13 explained by Commissioner Keiser.

14 So Commissioners, what -- I will just be  
15 really up front with you. I am opposed to this  
16 proposal in any way, shape or form. I will be  
17 voting no on the proposal and I will leave my  
18 comments on the proposal for the proper time  
19 for debate.

20 However, at the same time, I think that if  
21 it is -- if the proposal is going to pass off  
22 of this floor and go into Style and Drafting, I  
23 would like it to be in a form that I think is a  
24 little more fair, is the best way I can say it.

25 So -- and I think the way to do that is if

1 in the future Commissioner Keiser thinks that  
2 it is a good idea for all future Constitutional  
3 Amendments to pass by the 60 percent of the  
4 entirety of voters that are voting in that  
5 election, not just the voters that voted on  
6 that particular amendment, then I think it is  
7 only fair that her amendment pass by the same  
8 percentage of votes.

9 And so I have drafted this amendment,  
10 Commissioner Martinez, Commissioner Stemberger  
11 have sort of helped me with some legal language  
12 to make sure we get the schedule correct and  
13 all of that. So on advice of counsel, this  
14 is -- this is the language that the collective  
15 minds of the body have come up with that will  
16 work.

17 Obviously, if there are any legal issues  
18 with it or if Style and Drafting sees that they  
19 need to make any improvements in it or  
20 Commissioner Coxe or Schifino has a different  
21 opinion, they can let Style and Drafting know.  
22 But we did our best shot at, at making this  
23 proposal a little more fair, I think is the  
24 best way to put it, and that is the explanation  
25 of the amendment, Mr. Chairman.

1           CHAIRMAN KARLINSKY: Thank you,  
2 Commissioner Carlton. Are there questions on  
3 the amendment? Questions on the amendment?  
4 Commissioner Sprowls, you are recognized.

5           COMMISSIONER SPROWLS: Thank you,  
6 Mr. Chair, and thank you, Commissioner Carlton.  
7 I get what you are trying to do here, and I  
8 don't have a problem with them. I guess my  
9 question would be is it constitutional and has  
10 there been any kind of legal precedent that we  
11 have asked anybody for, because I think it is  
12 obviously highly unusual to say, right, that we  
13 have a separate constitutional proposal that  
14 will pass at one threshold, where all --  
15 everything else passes at a separate threshold.  
16 That seems suspect, at best.

17           CHAIRMAN KARLINSKY: Commissioner Carlton.

18           COMMISSIONER CARLTON: Well, I am going to  
19 took a shot at answering, and then I am going  
20 to defer to the smarter person in the room who  
21 is Commissioner Martinez. But it is a little  
22 unusual, I will grant that. But basically we  
23 are allowed as a body to put conditions on  
24 these Constitutional Amendments.

25           Quite frankly, this condition could be put

1 on any of these proposals. It is just an extra  
2 condition of the amendment drafted within the  
3 amendment, itself. So if you look at what we  
4 are doing, what we're essentially saying is  
5 that, because if you look at way the schedule  
6 is written, you are saying that the amendment  
7 takes effect on the day it is -- on Election  
8 Day.

9 However, after confirmation from the  
10 Secretary of State the operative language does  
11 not take effect unless there is the extra  
12 requirement of 60 -- 66 percent -- 60 percent  
13 of the total voters.

14 But Mr. Chairman, if I could defer to  
15 Commissioner Martinez because he probably has a  
16 better handle on those constitutional issues  
17 than I do.

18 CHAIRMAN KARLINSKY: Commissioner  
19 Martinez, you are recognized.

20 COMMISSIONER MARTINEZ: Thank you,  
21 Mr. Chair. I have to confess, last night I did  
22 not sleep at a Holiday Inn Express, I didn't do  
23 that. So although I may play a constitutional  
24 lawyer on television, I am not a constitutional  
25 lawyer.

1           So what I did an hour ago is what I  
2 usually do, is I called somebody who is much  
3 better than me and I called one. I called  
4 Barry Richard. And I asked Barry if we could  
5 do this and if it would be constitutional, and  
6 Barry said yes. However, you need to make it  
7 very clear as to what it is that we are doing.

8           You need to put it on the record here.  
9 And he did say that it was a first impression,  
10 but based on his opinion, and he is about as  
11 good as any constitutional lawyer as I know  
12 certainly, that we could do it if we put on the  
13 record what it is that we are trying to do.

14           So what we are trying to do here is to, if  
15 it goes to the ballot in November, to make it  
16 clear to the voters that it will become an  
17 amendment if that particular proposal receives  
18 60 percent of the voters voting in the  
19 election, which is what, which is what Chair --  
20 Commissioner Keiser wants.

21           So it is kind of unique, but he says that  
22 is the best way that he thought that it could  
23 be done.

24           CHAIRMAN KARLINSKY: Commissioner Sprowls.

25           COMMISSIONER SPROWLS: Thank you,

1 Mr. Chair, and I will take that as we are  
2 outside our skis here pretty good.

3 Let me ask you this question. So we  
4 obviously raised it at one point from  
5 50 percent not long ago, to 60 percent  
6 threshold to pass this by -- by a vote of the  
7 voters. We didn't have a similar amendment on  
8 that provision to make it pass, meaning back  
9 then a simple majority would have passed a new  
10 threshold for 60 percent, but under this  
11 amendment it is contemplated to apply this new  
12 standard to this amendment, is that right?

13 CHAIRMAN KARLINSKY: Commissioner Carlton.

14 COMMISSIONER CARLTON: That is -- that is  
15 correct.

16 CHAIRMAN KARLINSKY: Further questions?  
17 Commissioner Gaetz.

18 COMMISSIONER GAETZ: Thank you very much,  
19 Mr. Chairman. Commissioner Martinez, I know  
20 this is not your proposal and it is not your  
21 amendment. You are simply in the arena, and he  
22 is not the best lawyer, Coxe says.

23 Wow, I won't touch that line. But  
24 Commissioner Martinez, with the Chair's  
25 indulgence, may I ask Commissioner Martinez a

1 question?

2 CHAIRMAN KARLINSKY: Yes, sir.

3 COMMISSIONER GAETZ: Commissioner  
4 Martinez, in your conversation with  
5 Mr. Richards, did you -- did you inquire of him  
6 whether he recalled any other time that an -- a  
7 Constitutional Amendment in effect became  
8 retroactive to the moment that it was passed?

9 CHAIRMAN KARLINSKY: Commissioner  
10 Martinez.

11 COMMISSIONER MARTINEZ: The way he -- yes,  
12 Commissioner Gaetz, the way he explained it to  
13 me, he thought this was a first impression.  
14 However, he thought if it is placed on a  
15 schedule which is the way this would be done,  
16 that he thought it would be constitutional.  
17 That is the way he best explained it to me.

18 CHAIRMAN KARLINSKY: Commissioner Gaetz  
19 for a follow up.

20 COMMISSIONER GAETZ: Thank you very much,  
21 Mr. Chairman. In that case, Senator Carlton, I  
22 just had this question. We -- our proposals  
23 don't go to the Supreme Court for review, they  
24 don't go to the Legislature or the Governor,  
25 but we are fortunate to have the Attorney

1 General of Florida as a member of our  
2 Commission and I don't think that is by  
3 accident.

4 If this is, and I realize that you are  
5 opposed to the underlying proposal. So this  
6 may all be moot. But it seems to me that if we  
7 go forward with something that is  
8 extraordinarily unique and if we have, at best,  
9 an informal opinion from, you know, two  
10 well-respected lawyers, do you think that it  
11 would be appropriate before we go too much  
12 further or maybe if this comes off the floor to  
13 have Style and Drafting consult with the  
14 Attorney General?

15 We have the opportunity to get the  
16 Attorney General's views on this, if not an  
17 Attorney General's opinion on whether what we  
18 are doing is too unique.

19 CHAIRMAN KARLINSKY: Commissioner Carlton.

20 COMMISSIONER CARLTON: Thank you, Mr.  
21 Chairman. Commissioner Gaetz, I think that is  
22 a very good idea if this proposal does come off  
23 the floor. I do think that Style and Drafting  
24 would need to look at this from a legal  
25 analysis and perhaps seek outside counsel or

1 the advice or an opinion from the Attorney  
2 General. So I think that is a very good  
3 suggestion.

4 CHAIRMAN KARLINSKY: Commissioner Gaetz.

5 COMMISSIONER GAETZ: Then my final  
6 question, Commissioner Carlton, is given the  
7 fact that you, that you oppose the underlying  
8 proposal but you are trying to make that  
9 proposal as you put it, more fair, should it  
10 come off the floor? Do you urge us to vote for  
11 the pending amendment or do you urge us to  
12 merely hold our powder for the underlying  
13 proposal?

14 CHAIRMAN KARLINSKY: Commissioner Carlton.

15 COMMISSIONER CARLTON: I am -- because I  
16 can't count my chickens before they hatch and  
17 anybody that has watched this process knows  
18 that the predictable is unpredictable and the  
19 unpredictable is predictable, I am going to be  
20 in the unique position, I am not sure I have  
21 ever said this before, I would like for the  
22 body to vote, adopt my amendment, and then in  
23 debate I will be opposed to the Bill even if  
24 this amendment is adopted.

25 CHAIRMAN KARLINSKY: Commissioner Smith.

1           COMMISSIONER SMITH: Thank you, Mr. Chair.  
2           Yes, the hour is late and I think we are  
3           adjourning at 6:00. And we have some concerns  
4           about the constitutionality of this amendment.  
5           So what I would propose and I don't know if I  
6           have to do it as a motion, is that we TP the  
7           amendment, TP the proposal, we can look at it  
8           through the night, and I am sure there is a lot  
9           of constitutional lawyers looking at this and  
10          we have lawyers on staff; since the hour is  
11          late and we have questions, serious questions  
12          about the constitutionality of this amendment,  
13          I would move that we TP the amendment and the  
14          proposal for now.

15           CHAIRMAN KARLINSKY: Motion by Senator  
16          Smith to TP the amendment and TP the proposal.  
17          All in favor?

18                   (Chorus of yea's).

19           CHAIRMAN KARLINSKY: Any opposed?

20           A VOICE: Nay.

21           CHAIRMAN KARLINSKY: The aye's have it.  
22          So the proposal will be TP'd. I am going to  
23          turn the gavel over back to Commissioner  
24          Beruff, Chair Beruff. Thank you.

25           CHAIRMAN BERUFF: We have hands, we have

1 hands, do you want to count the yea's and  
2 nay's? Open the board, please.

3 COMMISSIONER SMITH: This is on the motion  
4 to --

5 CHAIRMAN KARLINSKY: Excuse me, what  
6 exactly are we going to vote on?

7 CHAIRMAN BERUFF: You are voting on the  
8 motion, yes, the motion to TP the amendment and  
9 the -- the -- the amendment and the proposal.

10 CHAIRMAN KARLINSKY: Great.

11 CHAIRMAN BERUFF: One at a time. But we  
12 are going to first vote on the motion to --

13 CHAIRMAN KARLINSKY: Temporarily postpone  
14 it. That is the only thing we are voting on  
15 right now.

16 CHAIRMAN BERUFF: First the amendment,  
17 then the proposal.

18 CHAIRMAN KARLINSKY: All those in favor  
19 signify by saying -- well, no, we got the  
20 board, just vote. There you go. I think  
21 everybody vote, please, so we can get a tally.  
22 Has everybody voted?

23 Close the board and announce the tally,  
24 please.

25 THE SECRETARY: Twenty-four yea's, seven

1           nay's, Mr. Chair.

2                   CHAIRMAN BERUFF: We are temporarily  
3           postponing until tomorrow because we are going  
4           to adjourn in five minutes, so we don't have  
5           enough time.

6                   We are TP'ing the proposal now until  
7           tomorrow. Everybody have fun tonight. Oh,  
8           okay, we need a motion for adjournment. Is  
9           there -- there is a motion and there a second  
10          for adjournment, no?

11                  A VOICE: Recognize Tim.

12                  CHAIRMAN BERUFF: Recognize Tim, excuse  
13          me.

14                  COMMISSIONER CERIO: Thank you, Mr. Chair.  
15          I move the Commission adjourn until tomorrow,  
16          Tuesday, March 20th, at 9:00 a.m.

17                  CHAIRMAN BERUFF: Perfect, so moved. Are  
18          we done?

19                  (Whereupon, the proceedings were  
20          concluded.)

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C E R T I F I C A T E

STATE OF FLORIDA )

COUNTY OF LEON )

I hereby certify that the foregoing transcript is of a tape-recording taken down by the undersigned, and the contents thereof were reduced to typewriting under my direction;

That the foregoing pages 165 through 360 represent a true, correct, and complete transcript of the tape-recording;

And I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

Dated this 8th day of May, 2018.

\_\_\_\_\_

CLARA C. ROTRUCK

Notary Public

State of Florida at Large

Commission Expires:

November 13, 2018

Commission NO.: FF 174037