



# Journal of the 1997-1998 Constitution Revision Commission

Number 13

Monday, January 12, 1998

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## CALL TO ORDER

The Commission was called to order by the Chairman at 1:12 p.m. A quorum was present—26:

Mr. Chairman	Connor	Lowndes	Scott
Alfonso	Evans	Marshall	Smith
Anthony	Ford-Coates	Mills	Thompson
Barkdull	Freidin	Morsani	West
Barnett	Hawkes	Nabors	Zack
Brochin	Henderson	Planas	
Butterworth	Kogan	Riley	

Alternates:

Barton	Leesfield
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Excused: Commissioners Corr, Crenshaw, Jennings, Mathis, Sullivan, Sundberg and Wetherington; Commissioner Rundle until 2:05 p.m.; Commissioner Evans-Jones until 4:18 p.m.

## PRAYER

The following prayer was offered by Commissioner Evans:

Do let us pray. Our Heavenly Father, we thank you for your ever presence. Thank you for your guidance, opening our hearts, so that we will be allowed to vote as you guide today.

## PLEDGE

Commissioner Zack led the Commission in the pledge of allegiance to the flag of the United States of America.

## ANNOUNCEMENT

The Chairman announced the birth of Isabella Kathryn Alfonso, daughter of Commissioner Alfonso and his wife Dorothy, who was born December 29, 1997.

## MOMENT OF SILENCE

The Chairman led the Commission in a moment of silence in memory of Joseph C. Jacobs, a member of the 1968 Constitution Revision Commission, who passed away January 10.

## INTRODUCTION OF PROPOSALS

By Commissioner Connor—

**Proposal 178**—A proposal to revise ARTICLE I, s. 5, Fla. Const.; providing that the rights of electoral participation and political association are fundamental and that any law restricting such rights is subject to strict judicial scrutiny.

—was referred to the Ethics and Elections Committee.

By Commissioner Thompson—

**Proposal 179**—A proposal to revise ARTICLE III, ss. 8, 19, Fla. Const.; providing guidelines for legislative consideration of veto messages; revising calculation of the 72-hour public review period for general appropriation bills.

—was referred to the Legislative Committee.

By Commissioner Brochin—

**Proposal 180**—A proposal to revise ARTICLE VII, s. 4, Fla. Const.; providing that, after a specified date, the "Save-Our-Homes" assessment limitation applies only to homestead parcels that have a just value of more than a specified amount; requiring provision to be made by general law for the coordination of this limitation with other assessment limitations set forth in Article VII, s. 4(c), Fla. Const.; allowing provision to be made by general law for adjusting the maximum just value to accommodate inflation.

—was referred to the Finance and Taxation Committee.

By Commissioner Brochin—

**Proposal 181**—A proposal to revise ARTICLE IX, s. 1, Fla. Const.; providing public rights to, and state duties to provide, complete and adequate public education.

—was referred to the Education Committee.

By Commissioner Riley—

**Proposal 182**—A proposal to revise ARTICLE IV, ss. 3, 4, 5, 6, 8, 13, and ARTICLE VI, s. 4, Fla. Const.; providing for appointment of Cabinet members.

—was referred to the Executive Committee.

By Commissioner Brochin—

**Proposal 183**—A proposal to revise the Florida Constitution; providing that the Florida Constitution Revision Commission should revise the constitution to allow certain constitutional provisions to be converted into general law.

—was referred to the Legislative Committee.

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By Commissioner Mills—

**Proposal 184**—A proposal to revise ARTICLE VI, s. 1, Fla. Const.; providing that the legislature shall prohibit undue influence and other improper conduct in connection with elections.

—was referred to the Ethics and Elections Committee.

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By Commissioner Mills—

**Proposal 185**—A proposal to revise ARTICLE VII, s. 3, Fla. Const.; providing that certain property owned by public airports and seaports is exempt from taxation.

—was referred to the Finance and Taxation Committee.

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By Commissioner Thompson—

**Proposal 186**—A proposal to revise ARTICLE VI, s. 1, Fla. Const.; limiting political contributions.

—was referred to the Ethics and Elections Committee.

### MOTIONS

On motions by Commissioner Barkdull, the rules were waived and **Committee Substitute for Committee Substitute for Proposal 45, Proposal 123, Proposal 152, Proposal 5, Committee Substitute for Proposal 14, Proposal 17, Proposal 153, Proposal 60, Committee Substitute for Proposal 108, Proposal 94, Proposal 37, Proposal 27, Proposal 56, Proposal 95, Proposal 120, Committee Substitute for Proposal 21, Proposal 24, Proposal 39, Proposal 151, Proposal 91 and Proposal 96** were established as the Special Order for this day.

On motion by Commissioner Nabors, by unanimous consent **Proposal 175** was withdrawn from further consideration in lieu of **Proposal 65** which was withdrawn in error on December 11.

On motion by Commissioner Nabors, by unanimous consent **Proposal 92** was withdrawn from further consideration.

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### MOTION TO INTRODUCE PROPOSAL

On motion by Commissioner Connor, the rules were waived and the following proposal was introduced notwithstanding the fact that the final day had passed for introduction of proposals:

By Commissioner Connor—

**Proposal 187**—A proposal to revise ARTICLE I, s. 3, Fla. Const.; limiting conditions for restrictions on the free exercise of religion.

—was referred to the Declaration of Rights Committee.

### COMMITTEE MEETING CHANGE

Commissioner Barkdull announced that the Select Committee on Article V Costs meeting scheduled for this day was cancelled.

On motion by Commissioner Connor, the rules were waived and the Declaration of Rights Committee was granted permission to add **Proposal 187** to the agenda at the meeting January 13.

On motion by Commissioner Smith, the rules were waived and **Proposal 17** was removed from the Special Order and recommitted to the Declaration of Rights Committee to be considered at the meeting January 13.

### SPECIAL ORDER

**Committee Substitute for Committee Substitute for Proposal 45**—A proposal to revise ARTICLE IV, s. 9, Fla. Const.; creating the Fish and Wildlife Conservation Commission to be composed initially of the existing members of the Game and Fresh Water Fish Commission and the Marine Fisheries Commission and providing for the powers and duties of the commission.

—was read.

Commissioner Thompson moved the following amendment which was adopted:

**Amendment 1**—On page 3, line 5, after the word “commission” insert: *, as set forth in statutes in effect on the effective date of this amendment,*

On motion by Commissioner Henderson, **Committee Substitute for Committee Substitute for Proposal 45** as amended was adopted, ordered engrossed and then committed to the Style and Drafting Committee. The vote was:

Yeas—24

Alfonso	Connor	Lowndes	Riley
Anthony	Evans	Marshall	Scott
Barkdull	Ford-Coates	Mills	Smith
Barnett	Freidin	Morsani	Thompson
Brochin	Henderson	Nabors	West
Butterworth	Kogan	Planas	Zack

Nays—None

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**Proposal 123**—A proposal to revise ARTICLE XI, Fla. Const.; repealing s. 6 relating to the Taxation and Budget Reform Commission.

—was read.

Commissioner Barnett moved the following amendment which was adopted:

**Amendment 1**—On page 1, lines 2 and 3, delete those lines and insert:

Section 1. Section 6 of Article XI of the Florida Constitution is revised by amending that section to read:

#### ARTICLE XI AMENDMENTS

SECTION 6. Taxation and budget reform commission.—

(a) Beginning in 1990 and each tenth year thereafter, there shall be established a taxation and budget reform commission composed of the following members:

(1) eleven members selected by the governor, none of whom shall be a member of the legislature at the time of appointment.

(2) seven members selected by the speaker of the house of representatives and seven members selected by the president of the senate, none of whom shall be a member of the legislature at the time of appointment.

(3) four non-voting ex officio members, all of whom shall be members of the legislature at the time of appointment. Two of these members, one of whom shall be a member of the minority party in the house of representatives, shall be selected by the speaker of the house of representatives, and two of these members, one of whom shall be a member of the minority party in the senate, shall be selected by the president of the senate.

(b) Vacancies in the membership of the commission shall be filled in the same manner as the original appointments.

(c) At its initial meeting, the members of the commission shall elect a member who is not a member of the legislature to serve as chairman and the commission shall adopt its rules of procedure. Thereafter, the commission shall convene at the call of the chairman. **An affirmative**

~~vote of two thirds of the full commission and the concurrence of a majority of the members appointed by the governor pursuant to paragraph (a)(1), a concurrence of a majority of the members appointed by the speaker of the house of representatives pursuant to paragraph (a)(2), and a concurrence of a majority of the members appointed by the president of the senate pursuant to paragraph (a)(2) shall be necessary for any revision of this constitution or any part of it to be proposed by the commission.~~

(d) The commission shall examine the state budgetary process, the revenue needs and expenditure processes of the state, the appropriateness of the tax structure of the state, and governmental productivity and efficiency; review policy as it relates to the ability of state and local government to tax and adequately fund governmental operations and capital facilities required to meet the state's needs during the next ten year period; determine methods favored by the citizens of the state to fund the needs of the state, including alternative methods for raising sufficient revenues for the needs of the state; determine measures that could be instituted to effectively gather funds from existing tax sources; examine constitutional limitations on taxation and expenditures at the state and local level; and review the state's comprehensive planning, budgeting and needs assessment processes to determine whether the resulting information adequately supports a strategic decisionmaking process.

(e) The commission shall hold public hearings as it deems necessary to carry out its responsibilities under this section. The commission shall issue a report of the results of the review carried out, and propose to the legislature any recommended statutory changes related to the taxation or budgetary laws of the state. Not later than one hundred eighty days prior to the general election in the second year following the year in which the commission is established, the commission shall file with the secretary of state its proposal, if any, of a revision of this constitution or any part of it dealing with taxation or the state budgetary process.

And the title is amended as follows:

On page 1, lines 2-4, delete those lines and insert: ARTICLE XI, Fla. Const.; deleting certain requirements with respect to votes by the members of the commission to amend this constitution.

The vote was:

Yeas—22

Alfonso	Connor	Lowndes	Riley
Anthony	Evans	Marshall	Smith
Barkdull	Ford-Coates	Mills	Thompson
Barnett	Freidin	Morsani	West
Brochin	Hawkes	Nabors	
Butterworth	Kogan	Planas	

Nays—None

On motion by Commissioner Barkdull, further consideration of **Proposal 123** as amended was deferred.

**Proposal 152**—A proposal to revise ARTICLE XI, s. 2, Fla. Const.; amending the deadline by which the Constitution Revision Commission must file any proposed revision with the Secretary of State.

—was read.

On motion by Commissioner Barkdull, **Proposal 152** was adopted and committed to the Style and Drafting Committee. The vote was:

Yeas—18

Mr. Chairman	Butterworth	Marshall	Smith
Alfonso	Freidin	Mills	Thompson
Anthony	Henderson	Planas	Zack
Barkdull	Kogan	Riley	
Barnett	Lowndes	Rundle	

Nays—8

Brochin	Ford-Coates	Morsani	Scott
Evans	Hawkes	Nabors	West

**Proposal 5**—A proposal to revise ARTICLE I, s. 2, Fla. Const.; prohibiting discrimination based on national origin.

—was read.

On motion by Commissioner Planas, **Proposal 5** was adopted and committed to the Style and Drafting Committee. The vote was:

Yeas—23

Alfonso	Connor	Kogan	Rundle
Anthony	Evans	Lowndes	Scott
Barkdull	Ford-Coates	Mills	Thompson
Barnett	Freidin	Nabors	West
Brochin	Hawkes	Planas	Zack
Butterworth	Henderson	Riley	

Nays—1

Morsani

The Commission resumed consideration of—

**Proposal 123**—A proposal to revise ARTICLE XI, Fla. Const.; repealing s. 6 relating to the Taxation and Budget Reform Commission.

—which was previously considered and amended this day.

The Chairman ruled that **Amendment 1** to **Proposal 123** was adopted as a substitute for **Proposal 123**.

Commissioner Connor moved the following amendment to **Substitute Proposal 123** which was adopted:

**Amendment 2**—On page 2, lines 13-22, delete those lines and insert: shall convene at the call of the chairman. An affirmative vote of two thirds of the full commission ~~and the concurrence of a majority of the members appointed by the governor pursuant to paragraph (a)(1), a concurrence of a majority of the members appointed by the speaker of the house of representatives pursuant to paragraph (a)(2), and a concurrence of a majority of the members appointed by the president of the senate pursuant to paragraph (a)(2)~~ shall be necessary for any revision of this constitution or any part of it to be proposed by the commission.

On motion by Commissioner Barkdull, **Substitute Proposal 123** as amended was adopted, ordered engrossed and then committed to the Style and Drafting Committee. The vote was:

Yeas—19

Alfonso	Freidin	Morsani	Smith
Anthony	Henderson	Planas	Thompson
Barnett	Kogan	Riley	West
Connor	Lowndes	Rundle	Zack
Ford-Coates	Mills	Scott	

Nays—7

Barkdull	Butterworth	Hawkes	Nabors
Brochin	Evans	Marshall	

**Committee Substitute for Proposal 14**—A proposal to revise ARTICLE I, s. 2, Fla. Const.; changing the term “physical handicap” to “physical disability.”

—was read.

On motion by Commissioner Freidin, **Committee Substitute for Proposal 14** was adopted and committed to the Style and Drafting Committee. The vote was:

Yeas—19

Alfonso	Brochin	Freidin	Marshall
Anthony	Butterworth	Henderson	Morsani
Barkdull	Ford-Coates	Kogan	Nabors

Planas	Rundle	Smith	Zack
Riley	Scott	Thompson	
Nays—5			
Barnett	Hawkes	Lowndes	West
Evans			

**Proposal 153**—A proposal to revise ARTICLE V, s. 12, Fla. Const.; providing for membership of the judicial qualifications commission.

—was read.

On motion by Commissioner Barkdull, **Proposal 153** was adopted and committed to the Style and Drafting Committee. The vote was:

Yeas—22

Alfonso	Evans	Lowndes	Scott
Anthony	Ford-Coates	Marshall	Thompson
Barkdull	Freidin	Morsani	West
Barnett	Hawkes	Nabors	Zack
Butterworth	Henderson	Planas	
Connor	Kogan	Rundle	

Nays—None

Vote after roll call:

Yea—Mills

#### COMMISSIONER SCOTT PRESIDING

Consideration of **Proposal 60** was deferred.

#### CHAIRMAN DOUGLASS PRESIDING

**Committee Substitute for Proposal 108**—A proposal to revise ARTICLE VI, s. 4, and ARTICLE V, s. 10, Fla. Const.; providing that judicial officers may not hold office for more than eight consecutive years; reducing the terms of office for certain judicial officers.

—was read.

Commissioner Connor moved **Committee Substitute for Proposal 108** which failed. The vote was:

Yeas—4

Connor	Hawkes	Marshall	West
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Nays—19

Alfonso	Evans	Lowndes	Rundle
Barkdull	Ford-Coates	Morsani	Scott
Barnett	Freidin	Nabors	Thompson
Brochin	Henderson	Planas	Zack
Butterworth	Kogan	Riley	

**Proposal 94**—A proposal to revise ARTICLE V, s. 10, Fla. Const.; providing that candidates for judicial office may not be precluded from taking a public position on issues.

—was read.

Commissioner Evans moved **Proposal 94** which failed. The vote was:

Yeas—4

Connor	Evans	Thompson	West
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Nays—21

Mr. Chairman	Barkdull	Butterworth	Henderson
Alfonso	Barnett	Ford-Coates	Kogan
Anthony	Brochin	Freidin	Lowndes

Marshall	Nabors	Riley	Scott
Mills	Planas	Rundle	Zack
Morsani			

Vote after roll call:

Yea—Hawkes

**Proposal 37**—A proposal to revise the Florida Constitution by adopting language that is not gender-specific.

—was read.

On motion by Commissioner Freidin, **Proposal 37** was adopted and committed to the Style and Drafting Committee. The vote was:

Yeas—20

Alfonso	Butterworth	Mills	Rundle
Anthony	Ford-Coates	Morsani	Scott
Barkdull	Freidin	Nabors	Thompson
Barnett	Henderson	Planas	West
Brochin	Lowndes	Riley	Zack

Nays—2

Evans                      Hawkes

**Proposal 27**—A proposal to create ARTICLE X, s. 18, Fla. Const.; providing duties of boards of trustees or fiduciaries of public employees' retirement systems.

—was read.

Commissioner Riley moved **Proposal 27** which failed. The vote was:

Yeas—10

Mr. Chairman	Ford-Coates	Mills	Scott
Barkdull	Henderson	Riley	Thompson
Evans-Jones	Marshall		

Nays—15

Anthony	Evans	Lowndes	Rundle
Barnett	Freidin	Morsani	West
Brochin	Hawkes	Nabors	Zack
Butterworth	Kogan	Planas	

#### MOTION

On motion by Commissioner Zack, by unanimous consent **Proposal 56** was withdrawn from further consideration.

**Proposal 95**—A proposal to revise ARTICLE I, s. 16, Fla. Const.; requiring that the state reimburse a person charged with a crime for the costs of a successful defense whenever the charges are dismissed or the person is acquitted.

—was read.

Commissioner Evans moved **Proposal 95** which failed. The vote was:

Yeas—7

Anthony	Evans-Jones	Kogan	Riley
Evans	Freidin	Lowndes	

Nays—17

Barkdull	Ford-Coates	Nabors	West
Barnett	Henderson	Planas	Zack
Brochin	Marshall	Rundle	
Butterworth	Mills	Scott	
Connor	Morsani	Thompson	

COMMISSIONER SCOTT PRESIDING

Proposal 120—A proposal to revise ARTICLE VII, s. 9, Fla. Const.; providing a statewide millage cap for water management purposes.

—was read.

On motion by Commissioner Henderson, Proposal 120 was adopted and committed to the Style and Drafting Committee. The vote was:

Yeas—19

Table with 4 columns: Name, Evans, Lowndes, Riley. Rows include Alfonso, Anthony, Barnett, Brochin, Butterworth.

Nays—8

Table with 4 columns: Name, Connor, Hawkes, Thompson. Rows include Mr. Chairman, Barkdull.

Committee Substitute for Proposal 21—A proposal to revise ARTICLE I, s. 22, Fla. Const.; providing that a party to an action to establish paternity does not have a right to a trial by jury.

—was read.

Commissioner Rundle moved the following amendment which was adopted:

Amendment 1—On page 1, lines 16-18, delete those lines and insert: shall be fixed by law. In order to protect the right of children to an expedited determination of child support, the parties to an action to establish paternity are not entitled to a trial by jury.

Commissioner Rundle moved Committee Substitute for Proposal 21 as amended which failed. The vote was:

Yeas—3

Table with 3 columns: Name, Ford-Coates, Rundle. Row includes Barnett.

Nays—24

Table with 4 columns: Name, Connor, Kogan, Planas. Rows include Mr. Chairman, Alfonso, Anthony, Barkdull, Brochin, Butterworth.

CHAIRMAN DOUGLASS PRESIDING

Proposal 24—A proposal to revise ARTICLE IV, s. 8, Fla. Const.; requiring that a state prisoner serve at least 85 percent of his or her term of imprisonment, unless granted pardon or clemency; prohibiting the reduction of a prisoner's sentence by more than 15 percent; requiring that a state prisoner sentenced to life imprisonment be incarcerated for the remainder of his or her natural life, unless granted pardon or clemency.

—was read.

Commissioner Rundle offered the following amendment which was moved by Commissioner Mills and adopted:

Amendment 1—On page 2, lines 9-16, delete those lines and insert:

(d) The people have a fundamental right to know that public safety will always be one of their Government's highest priorities. Because protection of the public is one of Government's paramount duties, and because every citizen has the right to expect consistency and integrity in the criminal justice system, there must be truth in sentencing. Accordingly, no defendant sentenced to state prison shall be released for any reason

prior to serving at least 85 percent of the sentence imposed, unless granted pardon or clemency. State prisoners sentenced to life imprisonment shall be incarcerated for the rest of their natural lives, unless granted pardon or clemency.

On motion by Commissioner Rundle, Proposal 24 as amended was adopted, ordered engrossed and then committed to the Style and Drafting Committee. The vote was:

Yeas—17

Table with 4 columns: Name, Evans-Jones, Mills, Thompson. Rows include Alfonso, Barkdull, Brochin, Butterworth, Evans.

Nays—9

Table with 4 columns: Name, Freidin, Lowndes, Nabors. Rows include Anthony, Barnett, Connor.

Proposal 39—A proposal to revise ARTICLE X, Fla. Const.; creating the Florida Land and Water Conservation Trust Fund and providing for its source of funds and purposes.

—was read.

Commissioner Nabors moved the following amendment which was adopted:

Amendment 1—On page 1, delete everything after the proposing clause and insert:

Section 1. Section 11 of Article VII of the Florida Constitution is revised by amending that section to read:

ARTICLE VII FINANCE AND TAXATION

SECTION 11. State bonds; revenue bonds.—

(a) State bonds pledging the full faith and credit of the state may be issued only to finance or refinance the cost of state fixed capital outlay projects authorized by law, and purposes incidental thereto, upon approval by a vote of the electors; provided state bonds issued pursuant to this subsection may be refunded without a vote of the electors at a lower net average interest cost rate. The total outstanding principal of state bonds issued pursuant to this subsection shall never exceed fifty percent of the total tax revenues of the state for the two preceding fiscal years, excluding any tax revenues held in trust under the provisions of this constitution.

(b) Moneys sufficient to pay debt service on state bonds as the same becomes due shall be appropriated by law.

(c) Any state bonds pledging the full faith and credit of the state issued under this section or any other section of this constitution may be combined for the purposes of sale.

(d) Revenue bonds may be issued by the state or its agencies without a vote of the electors to finance or refinance the cost of state fixed capital outlay projects authorized by law, and purposes incidental thereto, and shall be payable solely from funds derived directly from sources other than state tax revenues.

(e) State bonds pledging all or part of a dedicated state tax revenue or the full faith and credit of the state may be issued by the state in the manner provided by general law to finance or refinance the acquisition and improvement of natural land, water areas, and related interests and resources for the purpose of conservation, outdoor recreation, water resource development, restoration of natural systems, or historic preservation, and for such multiple purposes as provided by general law.

(f)(e) Each project, building, or facility to be financed or refinanced with revenue bonds issued under this section shall first be approved by the Legislature by an act relating to appropriations or by general law.

And the title is amended as follows:

On page 1, delete everything before the proposing clause and insert: A proposal to revise ARTICLE VII, s. 11, Fla. Const.; providing for state bonds pledging all or part of a dedicated state tax revenue or the full faith and credit of the state for certain uses as provided by general law.

On motion by Commissioner Henderson, consideration of **Proposal 39** as amended was deferred.

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#### MOTION TO RECONSIDER

Commissioner Zack moved that the Commission reconsider the vote by which **Proposal 1** as amended was adopted December 12. The motion was placed on the calendar.

#### MOTIONS

On motion by Commissioner Barkdull, the rules were waived and **Proposal 169** was withdrawn from the Judicial Committee and placed on the calendar.

On motion by Commissioner Evans-Jones, by unanimous consent **Proposal 177** was withdrawn from further consideration.

On motion by Commissioner Henderson, by unanimous consent **Proposal 93** was withdrawn from further consideration.

On motions by Commissioner Mills, by unanimous consent **Proposal 110** and **Proposal 111** were withdrawn from further consideration.

On motion by Commissioner Barkdull, the rules were waived and all bills remaining on the Special Order this day were established as the Special Order for Tuesday, January 13.

#### COMMITTEE MEETING CHANGE

Commissioner Barkdull announced that the Rules and Administration Committee meeting scheduled for 6:00 p.m. this day was cancelled.

Commissioner Barkdull announced that the Judicial Committee and the Bonding and Investments Committee meetings scheduled for 9:00 a.m. Tuesday, January 13 were cancelled.

#### CORRECTION AND APPROVAL OF JOURNAL

The Journal of December 12 was corrected and approved as follows:

Page 127, column 1, from bottom, line 4, delete Proposal 116.; on page 127, column 2, after line 4 insert:

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The Education Committee recommends a committee substitute for Proposal 116, and recommend it not pass.

**The proposal with committee substitute attached was placed on the calendar.**

#### CO-SPONSORS

Commissioners Butterworth and Mills—Proposal 24

#### RECESS

On motion by Commissioner Barkdull, the Commission recessed at 6:01 p.m. for the purpose of holding committee meetings and conducting other Commission business to reconvene at 8:30 a.m., Tuesday, January 13, 1998.

CONSTITUTION REVISION COMMISSION

Daily Indices for
January 12, 1998

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**CONSTITUTION REVISION COMMISSION  
B-11 HISTORIC CAPITOL  
400 SOUTH MONROE STREET  
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