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CONSTITUTION REVISION COMMISSION

P.M. SESSION

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

2 CHAIR NUNEZ: And, Commissioners, please
3 note that the remaining two amendments were
4 requested to be withdrawn by the sponsors. So
5 we've dispensed with those as well.

6 Is there debate? Is there debate?

7 Commissioner Diaz in debate.

8 COMMISSIONER DIAZ: Thank you, Madam
9 Chair, and I have the unenviable task of
10 following that. That was a spectacular close,
11 and this is definitely a worthy Bill and really
12 an unimpeachable sponsor.

13 Unfortunately, I rise today to speak
14 against the Bill. And the more I read it and
15 the more I put my arms around it and tried to
16 get to know this amendment, the more the
17 questions came up. And I think that Senator
18 Lee's proposal just shines a light on just how
19 difficult it's going to be to define what a
20 disproportionate benefit is, but I will get
21 there in a bit.

22 More importantly, I'll break this down
23 piece by piece and tell you why I have
24 heartburn about the proposal as it currently
25 stands. And I did ask the sponsor if this

1 affected people retroactively so that there
2 would be no question as to whether it affects
3 me or not. These are things that I am worried
4 about, how they might affect other people.

5 My big fear about this legislation is I
6 think that inadvertently it's going to capture
7 people that it doesn't mean to capture. I also
8 think it is going to discourage people from
9 running or being appointed to positions and we
10 might lose some really good opportunities to
11 have some good people serving in office.

12 In the legislation, we start off by
13 talking about public officers not lobbying for
14 compensation. Again, there is a definition of
15 "lobbying," but every jurisdiction is
16 different, and as a former legislator who
17 actually practiced zoning and land use,
18 something I did before I served in Tallahassee,
19 when I was a legislator, I had to by law
20 register as a lobbyist in Miami-Dade County or
21 the City of Miami every time I presented
22 legislation. And I wasn't alone.

23 Dean Cannon, a former Speaker of the House
24 was a zoning lawyer. Dana Young, State
25 Senator, former Majority Leader of the House,

1 zoning lawyer. Miguel Díaz de la Portilla, a
2 zoning lawyer. Right now there are actually
3 candidates that are running for the Florida
4 House that are zoning lawyers, and some of them
5 are concerned whether or not they should
6 continue to seek office because this could
7 inadvertently impact them.

8 When it comes to policy and procurement,
9 there are a lot of businesses that rely on
10 competitive, transparent processes, bid -- bids
11 to get business. You have engineering firms,
12 you have plumbers, you have electricians, and
13 if they served in office at the state level, it
14 could be argued that they could not make offers
15 or bids for contracts that they had even before
16 they served in the Legislature.

17 I have a concern about the federal lobby
18 ban. Can the State really tell somebody that
19 if they cannot -- that they cannot lobby the
20 federal government? The first amendment of the
21 Federal Constitution gives us the right to
22 assemble and the right to petition the
23 government for the redress of grievances.

24 The Supreme Court in *NAACP versus Alabama*
25 said that the -- that the freedom of

1 association is an essential part of free
2 speech, something that people can engage in and
3 become more effective when they do it as a
4 group.

5 Lobbying has been deemed as a
6 constitutionally protected free speech. Should
7 we as members who are charged with protecting
8 our Constitution turn a blind eye of potential
9 infringement of the Federal Constitution?

10 The Legislature is already dealing with
11 this. Something that -- that the Senator said,
12 which was very powerful, is that this body has
13 an opportunity to do something that the
14 Legislature has been unwilling to do. But when
15 I was a member of the Florida House, I voted on
16 the lobby ban, and it actually became part of
17 the rules. So members of the House today are
18 prohibited from lobbying for six years.

19 So there is some movement, and the reason
20 it is important for us to know that is because
21 of stuff like this. This is precisely what I
22 meant or discussed when I was here for the
23 first day saying what needs to be in our
24 Constitution versus what needs to be in State
25 Statute.

1 This is something that could be
2 accomplished in statute, and if it were
3 accomplished in statute and there were
4 unintended consequences, they could be dealt
5 with the next year.

6 When something gets put in the
7 Constitution, it's a lot harder to deal with it
8 after the fact when problems start to arise.
9 And there will be unintended consequences. I
10 believe that our judiciary will be affected.
11 It is hard enough to get exceptional lawyers to
12 run for the judiciary today. This will make it
13 that much more difficult.

14 For example, if there is a vacancy and a
15 JNC is looking at a vacancy for a six-months
16 term, what lawyer in their right mind is going
17 to give up six years of being able to fully and
18 zealously advocate for their clients for six
19 years for a six-month term?

20 This applies to all candidates. If this
21 Bill stops good candidates from running or
22 applying for office, then we are failing at its
23 intent. This Bill can and will dilute the pool
24 of candidates.

25 Just a random example, one that I noted

1 this morning when I was writing these notes,
2 and I looked it up just to make sure I wasn't
3 crazy, is that Abraham Lincoln's legal practice
4 was described as one of a jack of all trades.
5 He did a little bit of everything. He
6 sometimes represented governments, he sometimes
7 went against them. He traveled across the
8 street, representing different people. A smart
9 lawyer like Abraham Lincoln, if he were
10 thinking about running for office, would he
11 think twice about running for office if it
12 meant that if his client had an issue before
13 the State, that he would have to give that case
14 to somebody else even if he only served a
15 two-year term in the State Legislature?

16 That is a retroactive application as
17 Senator Gaetz has been clear that this language
18 does not apply retroactively, but that doesn't
19 mean that a court somewhere can't say that it
20 will. What happened to the County Commissioner
21 that served a term for six months from 2017,
22 January, through June 2017? And the court
23 says, well, this does apply to them, it doesn't
24 say that it doesn't apply retroactively. That
25 person is blind-sided because they made a

1 decision to run or be appointed, and now all of
2 a sudden, there's this effect that comes in
3 from behind and all of a sudden impeaches their
4 ability to make a living. That will result in
5 a lawsuit, as will a lot of these different
6 situations, which means taxpayer dollars will
7 have to be spent to stop this.

8 Disproportionate benefits, I mentioned
9 that at the beginning. To me, that's the
10 scariest part here because we're allowing the
11 Commission of Ethics to define what
12 disproportionate benefits are. It isn't
13 defined in the Constitution. Therefore, a
14 group of unelected people will be deciding for
15 us what that means.

16 And I think that Senator Lee labored here
17 for a while trying to figure out how that body
18 would treat a particular circumstance, but that
19 body sometimes acts in the extreme. And if
20 they made the wrong decision, who would be
21 there to fix it? The Constitutional Amendment
22 doesn't say. Will we have to wait another 20
23 years for another CRC to fix the mistakes that
24 we make?

25 If I am the next Governor of Florida and I

1 am looking for appointments for the next
2 Secretary of Education, I'm going to look
3 across the state and find the best and finest
4 educators, the smartest people with the most
5 experience. That's who I want serving with me.
6 These people have dedicated their whole lives
7 to their subject matter, becoming subject
8 matter experts. Why would somebody that fits
9 that rule who's in the apex of their career for
10 a one or two or three-year appointment give up
11 six years of being able to zealously advocate
12 on behalf of their clients or their positions
13 or to change policy that they think is
14 important just because they chose to serve the
15 state?

16 Like the Senator said, no other state has
17 gone this far. And I commend them and I think
18 that a Legislature wouldn't go this far. I'm
19 living proof because I voted on this before.

20 My fear is that this Bill tries to
21 accomplish so much, that if there are any
22 issues with it, we're going to have a very
23 difficult time having in a Constitutional
24 Amendment to fix whatever loopholes some court
25 somewhere will find. Therefore, after very

1 serious consideration, I am voting no on this
2 Bill, and I ask you to consider doing the same
3 if you have any heartburn about the unintended
4 consequences of this legislation.

5 CHAIR NUNEZ: Further debate?
6 Commissioner Kruppenbacher.

7 COMMISSIONER KRUPPENBACHER: Members of
8 the Commission, respectfully, there was no item
9 in the Ethics Commission that generated more
10 debate and uniform consensus than working
11 through the issue on that.

12 The -- I respectfully disagree,
13 Commissioner Diaz, with your comments. I can
14 tell you from firsthand, I would put our Ethics
15 Commission staff above any Ethics Commission in
16 this country. That group takes its job
17 professionally, exceedingly, exceedingly
18 serious. It works very closely with the
19 professionals at the Attorney General's Office,
20 hand in hand in that process, and they don't go
21 to extremes.

22 They try and figure out how to interpret
23 things in a way that achieve the goal of
24 protecting the integrity of the public and the
25 people of the elected bodies.

1 Every official has the right to ask for an
2 opinion from them. You can get an informal
3 opinion or you can ask for a formal opinion. A
4 formal opinion is where the body votes on that.
5 That commission is appointed, right, there are
6 House appointees, there are Senate appointees,
7 et cetera.

8 So to say that we are going to rely on the
9 fox to pass rules to further strengthen the
10 integrity, I think has been evidenced over time
11 to be they're not going to go that far.
12 They're going to do what looks good, but
13 doesn't really go to the issue, right.

14 Now, without naming names -- and,
15 Commissioner Newsome, you know exactly what I
16 am talking about because we have lived it and
17 seen it. We have seen the elected State
18 Representatives who have used their position to
19 garner business, to get votes at local
20 entities, et cetera. This doesn't do anything
21 to stop an individual from representing
22 themselves or their family if the government is
23 dealing with them. Commissioner Gaetz, we were
24 very careful about that.

25 But what this does do, it prevents that

1 person who thinks -- and they shouldn't run for
2 office -- that in some way in their mind,
3 they're going to be able to use that position
4 to gain an advantage for themselves or their
5 business or their family. And all of us, I
6 would venture to say, know about stories about
7 elected officials, right, that have done that.

8 And sitting on Ethics, our biggest problem
9 was we could never hold them accountable. We
10 would send over recommendations to the
11 Legislature to adopt, to improve our ability to
12 deal with accountability. Never adopted, never
13 adopted, never adopted.

14 So I applaud -- and this was --
15 Commissioner Gaetz, you took the lead on this
16 when you saw how much you had the expertise,
17 given your background, more than anyone. I
18 thank you for doing this, but this is an
19 opportunity to move Florida forward.

20 Is it perfect? No. But that's why the
21 Ethics Commission is there to help with
22 interpretations and dealing with it. More
23 importantly, this does not preclude the
24 Legislature from continuing to want to pass
25 things to further deal with their body

1 ethically. This just sets a minimum standard
2 by which the public will hold them accountable
3 and look to the professionals to deal with
4 that.

5 So I would urge strong support for this,
6 probably more so than any other proposal,
7 because it declares our fundamental value of
8 what we expect from the people we elect.

9 CHAIR NUNEZ: Commissioner Schifino in
10 debate.

11 COMMISSIONER SCHIFINO: Thank you, Madam
12 Chair.

13 One of the issues that we dealt with after
14 we had voted favorably at our last meetings
15 concerning Proposal 39 was to make absolutely
16 certain that it did not impact or impair the
17 ability of quality legislators and other
18 government officials to practice law and earn a
19 living, and as you noted, to represent clients
20 in cases.

21 And so what we did is we had Commissioner
22 Gaetz work with the Bar, representatives of the
23 Bar. We spent an inordinate amount of time --
24 and that's what I tried to walk through and
25 make perfectly clear is P-39 does not impact

1 the ability of anyone to represent their
2 clients in the practice of law the day after
3 they leave office.

4 So I want to make certain that that is
5 perfectly clear. We worked very hard to make
6 certain that that was, in fact, the case. And
7 so I want this body to understand that, that
8 that is not what P-39 does. Thank you.

9 CHAIR NUNEZ: Additional debate?
10 Commissioner Lee in debate.

11 COMMISSIONER LEE: Thank you, Madam Chair,
12 and this is one of those cases where I can
13 pretty much endorse everything that's been said
14 on both sides.

15 A lot of people talk about these ethics
16 proposals and they kind of dismiss it by
17 saying, you know, you can't take politics out
18 of politics and this has been going on since
19 our founding fathers. Well, we're never going
20 to take drugs out of society, we're never going
21 to take speeding out of driving, but we have to
22 continue to try constantly to improve the
23 system.

24 And I understand what President Gaetz is
25 trying to do here and -- and I support him. It

1 is -- this job is never done, but there are at
2 times unintended consequences that take place,
3 as Commissioner Diaz points out, he's not
4 incorrect at all, and hopefully this will not
5 have been written so tightly that the Ethics
6 Commission and the Legislature, whether through
7 statute or our -- or its rules, can make
8 adjustments, and -- and if we stumble across
9 those sorts of things.

10 I would just like to make this point: I
11 -- I don't mean this to reflect negatively on
12 any group or subgroup of public service, but
13 when this -- a similar proposal to this was
14 moving through the Legislature, I felt that
15 until we dealt with the lawyers -- until we
16 deal with the lawyers and the legislative
17 process -- and they don't want to practice law,
18 most of them, with their customers or their
19 clients, they want to rain make. That's what
20 they want to do.

21 And they are doing one hell of a job of
22 it. And all you have to do is track the
23 history of their employment when they were
24 representing people who are urinating after a
25 football game or -- or -- or traffic tickets,

1 and now all of a sudden, they are law partners
2 and managing partners of the firm. And until
3 the Florida Bar restores that firewall between
4 lawyers and law firms in terms of talking about
5 issues and monetizing the knowledge that they
6 have as an insider in the legislative process,
7 we are going to continue to have that problem,
8 there's nothing we can do about it here.

9 But there's a reason -- and I apologize to
10 the lawyers, there's a lot of high-quality
11 people in the Legislature, some of them my very
12 good friends, and, you know, the bad apples are
13 the ones that spoil the bunch, but there's a
14 reason that my last check, there were 34
15 members of the law firm -- of -- 34 lawyers in
16 the Florida Legislature and one homebuilder.
17 It's because you got to be home working with
18 your hands and running a crew and nobody buys a
19 home from you because you're a member of the
20 Legislature.

21 But there are a lot of big corporations
22 with a lot of business in this state that have
23 to pay lawyers for something, transactional
24 work, et cetera, and it makes a heck of a lot
25 of sense to them to pick up along the way

1 someone who also happens to be a ranking member
2 of the Legislature, who's on the letterhead.
3 And it is happening too often, and as we look
4 at this and we're -- we're out of business
5 here, so I'd say this for the good of the order
6 and those of you who are involved in the Bar
7 and what-have-you, that needs to get fixed, and
8 it needs to get fixed tomorrow.

9 If you really want to address ethics in
10 state government, fix that provision and
11 preclude the lawyers in the process from being
12 able to download all the information that they
13 can get through the communications with
14 agencies and their colleagues about policy
15 moving through the process and what's going on
16 in the regulatory bodies to their -- to their
17 colleagues so that those colleagues can go out
18 with that insider information and rain make.

19 That is our problem, and I hope somebody
20 within earshot of this will try to help us fix
21 it.

22 CHAIR NUNEZ: Commissioner Joyner in
23 debate.

24 COMMISSIONER JOYNER: Thank you, Madam
25 Chair.

1 I was -- Senator Lee, you said -- and you
2 had some good friends. I don't know where you
3 count me, but -- who are lawyers in the
4 Legislature, but you cast a really wide net,
5 and it included me and Senator Rouson, Senator
6 Smith. I think we are -- are we the only three
7 lawyers here?

8 No, I mean who served in the Legislature
9 and -- oh, well, the Speaker Designate, of
10 course, and Judge Stargel. And you can find
11 bad apples in every profession, in every walk
12 of life, from the bottom to the top regardless,
13 you know.

14 And you said you're the only homebuilder
15 there. So where do I rate you? I mean, what
16 does someone say about you?

17 I think that to put all of the problems on
18 the lawyers is a -- is a real far reach, and we
19 are trying to, in a sense, legislate morality.
20 You're never going to get utopia. I don't care
21 how many Ethics Bills you pass, somebody is
22 going to find a way around it, and it won't
23 necessarily be lawyers.

24 Did you count how many business people are
25 in the Legislature and what they do in respect

1 to their different areas of their profession
2 and where they work and who and what benefits?
3 It is -- you said you can't get politics out of
4 politics, and you're mighty right about that,
5 but to slam-dunk my profession is something
6 that I take exception with you about, Senator
7 Lee, because you didn't count -- I can tell you
8 about the minority lawyers who are in the
9 Legislature.

10 I can tell you about the 16 years that I
11 lived off of half of what I made as a lawyer
12 because I made that sacrifice to come and say,
13 hey, guys, I know I am not producing any money,
14 so, you know, I will do what I can, but we
15 are -- but I -- I step forth, and that \$29,600
16 that the Legislature paid me, I took it and
17 what I had there in my savings because you know
18 I am fiscally conservative when it comes to
19 money, and especially mine, but I wanted to be
20 the best that I could be up here.

21 And you hear all these lawyer jokes and
22 disparaging remarks about the profession, and
23 it hurts because it casts us all in the same
24 light, and that is not fair. I know what kind
25 of person I am, I know about my ethics, and I

1 am not perfect, I've done bad things, as we all
2 have. But for the grace of God, some of us
3 wouldn't have been here, or if we had got
4 caught doing some things we've all done in our
5 youthful life and in our adult life.

6 So I would like for you to just take a
7 step back and meet with some of your lawyer
8 friends so that we can have a conversation so
9 you can come around to looking at us a little
10 differently. And it affects me personally
11 because I know you, we work together, and I
12 don't want you to throw the baby out with the
13 bath water because I consider myself a clean
14 baby, and there are others here -- you know,
15 Chris -- Senator Smith admitted that he had
16 used a loophole. It's there.

17 People are going to do it. We can close
18 it, but somebody else will just pay for another
19 person to run. I mean, there are some things
20 that -- or somebody else might be so
21 interested, they'll say, well, heck, I'll file
22 as a Republican and pay my own money and close
23 it, or as a Dem. You're not going to stop some
24 things. And we tend to not look at the reason
25 why things happen.

1 So just understand that you touched a
2 nerve with me today when you cast aspersions
3 about all the honorable members of the
4 profession and the other lawyers who are here
5 who haven't served in the Legislature who are
6 here on their own dime in the sense that they
7 are missing -- we are all not making money for
8 being here.

9 One woman accused us at one of the public
10 hearings, "I don't -- you all are getting
11 paid," and I said "Well, Baby, you know more
12 than I do." I -- I -- the state does pick up
13 the travel and the lodgings, but we are -- we
14 are public servants and we are doing it because
15 we were asked and we want to do it, because
16 each of us could have said no, but we didn't.

17 So don't be so easy to offend your friends
18 because I thought you and I were friends, and
19 you hurt my feelings today, along with others
20 in the profession. Thank you, Senator Lee, and
21 we can make up later.

22 CHAIR NUNEZ: Additional debate on the
23 revision? On the revision? Additional debate?
24 Commissioner Sprowls.

25 COMMISSIONER SPROWLS: I am tempted, but I

1 won't. Thank you, Madam Chair.

2 Members, I just wanted to rise and thank
3 Senator Gaetz. I appreciate your comments at
4 the very beginning about this got a little
5 muddy along the way, but I think as we've come
6 back here, we are -- we are here on a good
7 product, a better product.

8 You know, about two years ago, as this
9 Legislature was being sat, myself, Speaker *Pro*
10 *Tem* Nuñez, at the time Representative, now
11 Commissioner Diaz, and others of the Florida
12 House got together to come up with the most --
13 the most strict ethics rules in America and
14 imposing on ourselves in the Florida House a
15 six-year lobby ban to do what Senator Gaetz is
16 trying to do for all of Florida government
17 today.

18 So I am proud to support what you've done,
19 Senator Gaetz. Thank you for working with me
20 so diligently in order to clarify, to make sure
21 that people, whether they're CPAs or others,
22 get to do their job and not be infringed, but
23 to ensure that we do what we set out to do two
24 years ago, which is to hold ourselves to a
25 higher standard.

1 I think we do that. We build confidence
2 among all Floridians and the job that we've
3 come here to do. So I am grateful to you.
4 Thank you.

5 CHAIR NUNEZ: Additional debate?
6 Additional debate?

7 Commissioner Heuchan, you are recognized
8 to close on your revision.

9 COMMISSIONER HEUCHAN: Thank you, Madam
10 Chair, and I am going to just say this one kind
11 of minor thing.

12 Proposal -- yes, sir, Mr. Chairman.
13 Proposal 39 is a microcosm of this entire
14 process, of the whole thing, of people working
15 together, working through disputes, coming to a
16 conclusion and a resolution that as Senator
17 Gaetz talked, we were talking about this
18 proposal in its original form was imperfect.
19 It was imperfect.

20 So we dealt with amendments by
21 Commissioner Lee, we dealt with amendments by
22 Commissioner Stargel, we dealt with these
23 really heavy, heavy things. And so, yeah, I
24 will just say that this -- and I'm -- before we
25 finish tomorrow or whenever we are going to

1 finish, Mr. Chairman, I want to talk some more
2 just about the process and how we get to where
3 we are, but this Proposal 39 was a lot of work
4 by a lot of people that came from a lot of
5 different places. And with that I close, Madam
6 Speaker.

7 CHAIR NUNEZ: The secretary will unlock
8 the board and Commissioners will prepare to
9 vote.

10 Have all Commissioners voted? Have all
11 Commissioners voted?

12 The secretary will lock the board and
13 record the vote.

14 THE SECRETARY: Thirty yea's, four nay's,
15 Madam Chair.

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

21 We will now take up the next revision.

22 CHAIRMAN BERUFF: We are going to take a
23 proposal out of order.

24 Yes, Commissioner Gaetz.

25 COMMISSIONER GAETZ: Thank you, Mr.

1 Chairman.

2 May I ask your indulgence to open the
3 board should other Commissioners who are not
4 already co-sponsors may wish to co-sponsor this
5 provision?

6 CHAIRMAN BERUFF: Thank you for the
7 reminder.

8 COMMISSIONER GAETZ: Thank you, sir.

9 CHAIRMAN BERUFF: Any Commissioners that
10 wants to co-sponsor and show their support for
11 Revision 607 -- 6007.

12 Okay. Once, twice. Everybody showed
13 their support or not. Darryl, you're not
14 following instructions. That's right, okay.

15 So we have a tally. Thank you very much.
16 Let's reset the board.

17 Where is -- we are going to take -- we are
18 going to -- if the Commission will endorse my
19 idea, we are going to take 67 -- 6012, excuse
20 me, previously known as 67, next. And if
21 Commissioner -- Commissioner Heuchan, I'm
22 putting you back to work. Do you want to
23 introduce 6012, 6012, please? Thank you.

24 COMMISSIONER HEUCHAN: Thank you, Mr.
25 Chairman. Revision No. 12, which is PCP 6012,

1 is composed exclusively of Proposal 67 by
2 President Lee. The title reads, "Dog Racing,"
3 simply "Dog Racing."

4 Proposal 67 was amended in the Style and
5 Drafting Committee different than it came off
6 the floor to push back the start of the
7 prohibition on dog racing from June 30th, 2020,
8 to December 31st, 2020, but moves up the date
9 on which dog tracks can stop racing without
10 losing their gaming operations from June 30th,
11 2020, to December 31st, 2018.

12 It also changes the date dog tracks must
13 be a licensed permit holder to be eligible to
14 continue operating other gaming activities to
15 January 1st, 2018, from November 6th, 2018.

16 And with respect, Mr. Chairman, to the
17 amendment, Commissioner -- President Lee and
18 Speaker Nuñez could help with any questions of
19 the amendment, but I can represent to you that
20 this amendment -- the date changes were
21 primarily done to further protect the animals.

22 And with that, Mr. Chairman, Revision No.
23 12 is introduced and explained.

24 CHAIRMAN BERUFF: Okay. Questions on
25 Revision No. 6012? Questions?

1 We will move on to the amendment.

2 Amendment 948800, is that right?

3 Would you like to introduce your
4 amendment, Commissioner Bondi?

5 COMMISSIONER BONDI: And to help with
6 time, could I possibly go ahead and just
7 discuss the -- Senator Lee -- excuse me,
8 Chairman Lee said that I could present as
9 well --

10 CHAIRMAN BERUFF: Sure.

11 COMMISSIONER BONDI: -- all at once the
12 amendment and the --

13 CHAIRMAN BERUFF: That will be fine.

14 COMMISSIONER BONDI: -- proposal.

15 CHAIRMAN BERUFF: Please.

16 COMMISSIONER BONDI: Okay. As you've all
17 heard, we do have an amendment, and thank you
18 for agreeing with it. It is very simple. It
19 says, "ends dog racing, phases out commercial
20 dog racing in connection with wagering by
21 2020."

22 What this does is give the tracks time to
23 phase it out. So that's why that amendment is
24 very important.

25 Other gaming activities are not affected.

1 This does not affect the tracks, the
2 parimutuels, only the dog racing.

3 So just to describe this for you in the
4 state of Florida, there are 18 tracks currently
5 in the country. Forty states we know have
6 banned it. Twelve of those tracks are in
7 Florida. Of the 18 in the entire country, 12
8 are in Florida. This is a black eye on our
9 state.

10 We saw earlier -- we were all given on our
11 desk a picture of a beautiful little girl. Oh,
12 I was presented on my desk from the pro
13 breeders. Beautiful little girl standing with
14 a dog. If you noticed, she is tiny. Look at
15 the cage that dog is in. Look at -- let me
16 show you the real picture now. These are how
17 these dogs live their entire lives, 20 to 23
18 hours in a cage like this. These aren't pets.
19 They should be. That's how these dogs are
20 living their lives. This picture is from 2014
21 in Pensacola. That is how these dogs are
22 living.

23 If you noticed the back of that picture,
24 this one, 2011 -- and I think Commissioner
25 Carlton was going to pass this around for me --

1 this is a case where 37 dogs, this one -- and
2 you all had a lot of questions last time, so I
3 am explaining it. This is a case, 37 dogs were
4 found dead in Pensacola. Here's one more,
5 Commissioner, that goes with this one.
6 Thirty-seven dogs found dead, they were
7 prosecuted by State Attorney Hess, five years
8 in prison. Thirty-seven dogs, okay.

9 This one, Palm Beach County. Sorry.
10 Thank you for my -- Palm Beach County, 2009.
11 So this is our entire state. Palm Beach
12 County. This one is going to Reagan. 2010,
13 Florida Department of Business and Professional
14 Regulation took this one. So the cages are
15 mainly kept stacked, warehouse-style kennels,
16 metal cages; if anything in the bottom of them
17 is shredded, carpet, paper remnants for
18 bedding. Since 2013, 455 dogs have died at
19 tracks in Florida. 7,000 dogs are currently in
20 our state. And these numbers I am giving you
21 are approximate.

22 Over the past decade -- get ready for this
23 one -- 419 greyhounds have tested positive for
24 drugs in Florida; 68, cocaine, opioids, could
25 name -- all the drugs that we banned for us,

1 they've been putting into these dogs. And,
2 Senator Rouson, listen to this one, in 2017, 22
3 greyhounds -- this isn't old news -- 2017, 22
4 greyhounds tested positive for cocaine. Five
5 of those were in St. Pete, 17 in Jacksonville.
6 Female greyhounds are given anabolic steroids
7 to prevent loss of race days, and that's just
8 flat-out cruel. They are fed 4D meat from
9 downed animals because it is cheaper.
10 Charcoal, other things are added to it.

11 We all know these dogs ends up with broken
12 legs, serious injuries, and they are shipped
13 from track to track until they are either dead
14 or can no longer race at all. We have given
15 the 26 months to phase it out again.

16 The National Humane Society and, in fact,
17 the entire country are watching what we are
18 doing. They are watching us.

19 These dogs will find good homes to live
20 out the rest of their lives, all of them will.
21 It is cruel and inhumane, and I'm sorry if
22 others could not have acted on this in the
23 State of Florida, but we as a body have an
24 obligation to act. And by the way,
25 Massachusetts has banned it by ballot. This

1 isn't who we are as a state, and this isn't who
2 we need to be. This is horrible. And that's
3 the amendment and that's the proposal.

4 Thank you, Chairman.

5 CHAIRMAN BERUFF: Questions on the
6 amendment? Commissioner Smith.

7 COMMISSIONER SMITH: Thank you.

8 It's a question I had earlier. I noticed
9 at the end of the amendment, it says, "Other
10 gaming activities will not -- are not
11 affected." And that is the -- I guess the
12 philosophical question I've had before is right
13 now, there's parimutuels, they are considered
14 parimutuels in long history in the state of
15 Florida.

16 Now, if you get rid of the live racing, do
17 those facilities now become casinos, thus
18 increasing casinos in the state of Florida?
19 What will those -- what will those facilities
20 be viewed as if we get rid of the live racing?

21 COMMISSIONER BONDI: My understanding --

22 CHAIRMAN BERUFF: Commissioner Bondi.

23 COMMISSIONER BONDI: I'm sorry.

24 CHAIRMAN BERUFF: It's all right.

25 COMMISSIONER BONDI: Thank you, Chair.

1 And, Senator Lee, I may ask him to back me
2 up on this, but nothing will be impacted. They
3 will operate the exact same way except no one
4 will be betting on dogs' lives. Does that --

5 CHAIRMAN BERUFF: Question? Further
6 question?

7 COMMISSIONER SMITH: I guess I am trying
8 to get the definition of it because we have
9 already on the ballot is a -- the people are
10 saying, you know, no new casinos, no new
11 gambling, or whatever, and right now we have
12 parimutuels.

13 I just want to know when people vote, will
14 they be voting for -- if they vote for this,
15 will they be voting to now get rid of
16 parimutuels, but create casinos, because
17 with -- if there's money being lost through
18 this racing, I guess when they get the money,
19 they will re-invest it and make the casinos
20 bigger. Are we, in essence, making more
21 casinos in Florida?

22 COMMISSIONER BONDI: Chairman --

23 CHAIRMAN BERUFF: Commissioner Lee. Let's
24 keep it brief.

25 COMMISSIONER LEE: Thank you. Thank you,

1 Mr. Chair.

2 Commissioner Smith, my understanding --
3 and I wish I had Amendment 3 in front of me, I
4 think that's what you're referring to. I think
5 Amendment 3 that's on the ballot in 2018 by the
6 No Casinos group essentially says that if there
7 is an expansion of gambling after the effective
8 date of that amendment should it pass, it would
9 have to go back to a referendum of the voters.

10 So I don't see where that would have
11 anything to do with what we are doing here in
12 this proposal, which would actually be a
13 reduction in gambling in terms of no longer
14 being able to gamble on dog racing.

15 CHAIRMAN BERUFF: Commissioner Smith.

16 COMMISSIONER SMITH: The second question I
17 had -- I know we talked about this earlier, but
18 I don't know if I got a full answer on this.
19 Dealing with issue of the Bert Harris Act,
20 there was a letter from a law firm or
21 something, exactly are we sure that we wouldn't
22 be opening ourselves up to a Bert Harris Act
23 issue?

24 CHAIRMAN BERUFF: Commissioner Bondi.

25 COMMISSIONER BONDI: It is not a taking.

1 CHAIRMAN BERUFF: Commissioner Smith, is
2 there any further questions from your part?

3 COMMISSIONER SMITH: I guess I do like a
4 little more explanation because, I mean, when
5 I'm looking at what happened with the pigs --

6 CHAIRMAN BERUFF: Well, if you get five
7 attorneys --

8 COMMISSIONER SMITH: -- and looking what's
9 going on --

10 CHAIRMAN BERUFF: -- it will be five
11 different opinions.

12 COMMISSIONER BONDI: Yeah, I -- we have
13 the -- we have it right here somewhere. I just
14 have to find it. Hold on.

15 Yeah, they handed it out. Do you have the
16 Bert Harris --

17 CHAIRMAN BERUFF: While that's being
18 handed out, Commissioner Heuchan, do you want
19 to --

20 COMMISSIONER HEUCHAN: Yes, sir. Thank
21 you, Mr. Chairman.

22 I don't know if this helps Senator Smith
23 or not, but the amendment that General Bondi
24 offered is exclusively limited to, Senator
25 Smith, the title and the title summary. So

1 other than the substance of what we passed out
2 of here, with the one exception that I
3 mentioned on the date changes, nothing else has
4 changed. So there's no new gaming, there's no
5 new things. There's also no less.

6 CHAIRMAN BERUFF: Further questions?

7 COMMISSIONER BONDI: Chairman, may I
8 answer Commissioner Smith --

9 CHAIRMAN BERUFF: Commissioner Bondi is
10 recognized.

11 COMMISSIONER BONDI: Thank you, Chairman.

12 No property is taken, Commissioner Smith,
13 this is what I was looking for. Under Proposal
14 6012, the humane proposal simply protects
15 greyhounds and says that the state will no
16 longer license people to race them in circles
17 as tools for gambling.

18 A license for an activity is always
19 subject to renewal, and if the voters decide
20 that the activity is no longer in the best
21 interest of the state, then they will vote yes
22 on the measure.

23 CHAIRMAN BERUFF: Commissioner Smith, is
24 that a better answer?

25 COMMISSIONER SMITH: I guess I wasn't sure

1 this was coming up today, so I will save it for
2 debate if I can find my notes on it. Thank
3 you.

4 CHAIRMAN BERUFF: Any further questions?
5 Commissioner Coxe is recognized.

6 COMMISSIONER COXE: Thank you, Mr. Chair.
7 Either to General Bondi or Commissioner
8 Lee, how many states remain that don't have
9 greyhound racing or parimutuel in the country?

10 CHAIRMAN BERUFF: Commissioner Bondi.

11 COMMISSIONER BONDI: Thank you. Thank
12 you, Chair.

13 Forty have banned it, Commissioner, and I
14 believe other than Florida -- many don't have
15 it, only a handful, four or five others other
16 than Florida have it, but we are the majority
17 who have it because of the 18 tracks left in
18 the country, 12 of them are in Florida, which
19 includes 17 -- 7,000 greyhounds plus.

20 COMMISSIONER COXE: Can we assume that the
21 inhumane treatment of the dogs is unique to
22 greyhound racing, not just to Florida, and
23 that's why other states have abolished it? Mr.
24 Chairman, I'm sorry.

25 CHAIRMAN BERUFF: Commissioner Bondi.

1 COMMISSIONER BONDI: I would totally agree
2 with that.

3 COMMISSIONER COXE: Okay. If that's true,
4 why are we not abolishing parimutuel wagering
5 on greyhound racing anywhere? Why are we just
6 saying we are going to abolish greyhound racing
7 on Florida racing -- I mean, parimutuel
8 wagering on Florida dog racing, but all our
9 people can bet to their heart's content on the
10 racing elsewhere in the country if it's just as
11 inhumane as it is here? Why would we tolerate
12 that?

13 CHAIRMAN BERUFF: Commissioner Bondi.

14 COMMISSIONER BONDI: Because the majority
15 of the tracks are in our state and I want it to
16 pass. I think that is the compromise that
17 everyone in this room did. I -- to speak for
18 the co-sponsors, I don't think any of us,
19 frankly, are in favor of gambling, but if
20 that's what it takes to protect the cruel and
21 inhumane treatment of these dogs, then that's
22 what we'll do.

23 The dogs are simply there so the
24 parimutuels can operate, and in my -- that's my
25 opinion. Yeah, if we could ban the whole

1 thing, I wish we could.

2 CHAIRMAN BERUFF: Commissioner Coxe.

3 COMMISSIONER COXE: Thank you.

4 General Bondi, I guess I was coming less
5 from the perspective of being anti-gambling
6 than I was anti-inhumane treatment of dogs.

7 COMMISSIONER BONDI: Uh-huh.

8 COMMISSIONER COXE: And if the inhumane
9 treatment of dogs around the country elsewhere
10 gives rise to gambling in this state, why don't
11 we abolish gambling with respect to greyhound
12 racing anywhere in the country rather than just
13 greyhound racing in Florida? That's my
14 question.

15 COMMISSIONER BONDI: Well, I -- Chair?

16 CHAIRMAN BERUFF: Commissioner Bondi.

17 COMMISSIONER BONDI: I wish we could.

18 COMMISSIONER COXE: I take that --

19 CHAIRMAN BERUFF: Commissioner Lee.

20 COMMISSIONER LEE: Thank you, Mr. Chair,
21 and --

22 CHAIRMAN BERUFF: Brevity would be
23 appreciated.

24 COMMISSIONER LEE: Yes, sir.

25 Commissioner Kruppenbacher was -- and I

1 were thinking the same thing. We would have
2 been happy to entertain that amendment. The
3 truth of the matter is that at some point, you
4 can't let perfection become the enemy of the
5 good because you end up with nothing.

6 And so we have 18 tracks in this country,
7 12 of them are here in Florida, and if you
8 eliminate the simulcasting ability, you impair
9 a revenue stream for these organizations that
10 creates an economic hardship for them and the
11 house of cards comes down.

12 CHAIRMAN BERUFF: Further questions on
13 6012? Questions?

14 Commissioner Keiser.

15 COMMISSIONER KEISER: Commissioner Bondi,
16 thank you for the statistics and for sharing
17 with us some of the horrible mistreatment of
18 greyhounds.

19 You had mentioned that there are roughly
20 7,000, and I know that in our trials and the
21 many public hearings, the many, many e-mails we
22 have received, as well as individuals who have
23 contacted all of us to the best of my
24 knowledge, one of the concerns that has been
25 raised -- and from my standpoint, it is far

1 more important to make sure that these dogs are
2 treated with dignity and care, but one of the
3 questions that comes up very often is how will
4 you take care of all these dogs once the racing
5 and they are no longer kept in their cages?
6 And I know you understand my question, so if
7 you could help us with that.

8 CHAIRMAN BERUFF: Commissioner Bondi.

9 COMMISSIONER BONDI: And that's a great
10 question, Commissioner, and we have spoken to
11 the National Humane Society. They are watching
12 right now, people around the country are
13 watching right now. Again, we are in the
14 minority in this entire country. It is a black
15 eye on the state of Florida.

16 And these dogs will be spoken for. If I
17 have to take 1,000 of them, I will. I am --
18 Commissioner Lester walked out because I told
19 him I was giving him one. No, I am kidding.

20 It is horrible, and, I mean, many will
21 come with broken legs, with busted backs, but
22 the greyhound group, the rescue groups are out
23 there on a national level, and within this
24 country, they are willing to take these dogs
25 and -- and praying that none of them have to be

1 euthanized due to health reasons, the ones that
2 are still alive today will be adopted. That's
3 the word that I've been given from the National
4 Humane Society of America.

5 COMMISSIONER KEISER: Thank you.

6 CHAIRMAN BERUFF: Further questions on
7 6012?

8 Debate on 60 -- oh, question, Commissioner
9 Smith, I apologize.

10 COMMISSIONER SMITH: I find my question --
11 the question I had after reading that Bert
12 Harris Act issue, and so under the Broad and
13 Cassel letter, they were drawing the
14 distinction between the pigs --

15 COMMISSIONER BONDI: Yes.

16 COMMISSIONER SMITH: -- and this by saying
17 there was a Bert Harris action under the pigs
18 because they couldn't use the gestation crates
19 at all, and so there was a -- a Bert Harris
20 issue.

21 Under this -- so from your discussion
22 today, if we were to outlaw it, you say that
23 the dogs will be, over the next few years,
24 adopted. Do you pay a fee when you adopt the
25 dogs? Do you pay the -- the owner or the

1 breeder for the dog or adoptions, or is it paid
2 or is it voluntary? I don't understand how --

3 CHAIRMAN BERUFF: Commissioner Bondi.

4 COMMISSIONER BONDI: I'm not sure how the
5 humane society handles that, but I know they --
6 they do their best to care for the dogs with
7 their resources before they're adopted out.

8 If I could read you this, Commissioner
9 Smith, with your indulgence, regarding Bert
10 Harris?

11 CHAIRMAN BERUFF: Sure.

12 COMMISSIONER BONDI: Broad and Cassel.
13 This is -- this is what I've been given, that
14 the issue has been clouded, that the state
15 would be taking of property. Broad and Cassel,
16 the firm that won the compensation for a pig
17 farmer under the Bert Harris Act has analyzed
18 the language and finds that no compensation
19 would be due under Proposal -- here you go --
20 6012.

21 This is because track owners can develop
22 their land for other purposes and dog owners
23 can buy, sell, or use their dogs for anything
24 they want, with the exception of commercial
25 racing. And that is the way the language is

1 written, Commissioner.

2 CHAIRMAN BERUFF: Commissioner Smith.

3 COMMISSIONER SMITH: And I guess my
4 question would come on the second part, okay,
5 track owners, we know they get to use the land,
6 make more buildings, get more slots in the area
7 and become bigger, but the dog owners -- so now
8 the dogs have a certain value because they're
9 used in racing, but once -- if you do this, now
10 the dogs lose that racing value, and even
11 though they make great pets and have emotional
12 value, the financial value of that racing dog
13 now would become an issue of a Bert Harris.

14 That's why I question that letter. There
15 is a certain value because they can be used
16 commercially now, but we're going to say in
17 this that they cannot be used commercially
18 anymore.

19 CHAIRMAN BERUFF: Commissioner Bondi.

20 COMMISSIONER BONDI: And, again, this is
21 the legal opinion from the law firm of Broad
22 and Cassel that, again, they can develop their
23 land for other purposes. They can sell the
24 dogs, they can use the dogs for anything they
25 want other than -- most -- 99.9 percent of the

1 dogs in the world are pets and -- no. Can they
2 race them anymore? No. Is that a taking?
3 Absolutely not. It is preventing cruelty to
4 animals and abuse and neglect and horror,
5 frankly, in my opinion, and we are too good a
6 state for that.

7 CHAIRMAN BERUFF: Further questions on the
8 amendment?

9 Commissioner Stemberger is recognized.

10 COMMISSIONER STEMBERGER: General or
11 whoever would know the answer to this question,
12 my understanding is that most of the breeders
13 are out of state who actually own the animals
14 and they entrust them to the kennels that care
15 for them.

16 I'm not sure how the humane society fits
17 into that. If these owners wanted to euthanize
18 the animals, what would prohibit that and how
19 does the humane society have jurisdiction in
20 the matter? That's my question.

21 COMMISSIONER BONDI: Well, it is the
22 National Humane Society of the United States of
23 America. I'm sorry -- I'm sorry, Chairman.

24 CHAIRMAN BERUFF: You're good.

25 COMMISSIONER BONDI: I'm not used to this

1 as Attorney General, sorry.

2 CHAIRMAN BERUFF: You're in the moment.

3 COMMISSIONER BONDI: My tenure is
4 short-lived, so don't worry.

5 Yeah, Commissioner Stemberger, and I
6 realize you had a good experience with a visit
7 that you did. I know you have some friends in
8 the industry and I know you had -- you had a
9 good visit.

10 However, I don't know who the owners of
11 these dogs are, but I know they reside in our
12 state and they can no longer be used for
13 commercial purposes here.

14 The humane society wants to come in.
15 These -- all of these dog owners are claiming
16 to be such good, kind, loving people. I can't
17 imagine, when they have families that want to
18 take and raise these dogs, that they would want
19 to go in and euthanize them when people around
20 the country want to take them.

21 So that kind of flies in the face of
22 everything they've been saying. So I hope they
23 are being honest in that respect. That's as
24 much as I can say on that point.

25 CHAIRMAN BERUFF: Commissioner Heuchan.

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

3 This amendment, and the General has been
4 explaining the underlying proposal, but it
5 might be a good idea, Mr. Chairman, that we
6 deal with the amendment, which is a simple
7 one --

8 CHAIRMAN BERUFF: Yes.

9 COMMISSIONER HEUCHAN: -- and then we can
10 get on with it.

11 CHAIRMAN BERUFF: It's just a title
12 change.

13 COMMISSIONER HEUCHAN: Yes, it's a title
14 change and a summary change.

15 I just wanted to represent to -- to you
16 all that the -- that the amendments that
17 Commissioner Bondi is offering has also been
18 approved, for lack of a better word, confirmed
19 by our outside lawyers that it is also legally
20 sufficient. So --

21 CHAIRMAN BERUFF: Perfect. Okay. Any
22 more questions on the Amendment 948800?

23 I would like to go to debate then. Debate
24 on the Amendment 948800. Debate?

25 Not seeing any debate, would you like to

1 close on Amendment 948800? Commissioner Bondi,
2 please.

3 COMMISSIONER BONDI: I'll waive.

4 CHAIRMAN BERUFF: Okay. So those in
5 support of the amendment, signify by saying
6 yea.

7 (Chorus of yea's.)

8 CHAIRMAN BERUFF: Those against, signify
9 by saying nay.

10 CHAIRMAN BERUFF: Okay. The amendment is
11 adopted.

12 Now we will go back to Revision 6012 and
13 we will listen to debate on 6012 since we've
14 already got the questions. Plus there's been a
15 lot of debate, so maybe we can shorten that
16 fuse.

17 Debate on Revision 6012, Revision 12.
18 Revision 12, 6012. Commissioner Smith is
19 recognized on debate.

20 COMMISSIONER SMITH: Thank you, Mr. Chair.

21 I think we go back -- so we've had a lot
22 of discussion throughout this process about
23 treatment of animals, and, I mean, that's--
24 that's a -- certainly a discussion to have, but
25 I go back to our first time on this floor when

1 we came back and Commissioner Diaz made a great
2 point. Why are we here? What are we here to
3 do?

4 Earlier today, Commissioner Kruppenbacher
5 got up and he stated, "I'm not going to let the
6 Legislature hide behind not authorizing charter
7 schools," and that would -- associated with
8 that, why are we letting the Legislature hide
9 about not doing something on this?

10 This isn't a constitution revision issue.
11 This is a legislative issue that the
12 Legislature should take care of.

13 We've already authorized about five or six
14 proposals today. Add them to the other five
15 that are on the Constitution -- on the ballot
16 already, and then who knows what we'll do
17 tomorrow?

18 We are adding more and more and more
19 things to this ballot, and at some point we got
20 to I say, you know what, we have a Legislature
21 for a reason. We have a Legislature that comes
22 up here and they deal with gambling. And if
23 they don't -- if they haven't passed this,
24 maybe it shouldn't -- maybe it shouldn't be
25 passed.

1 I mean, you got former leaders of the
2 chamber that care strongly about it, and if the
3 body hasn't done it, maybe there's a reason.

4 This is a legislative matter. This is
5 truly a legislative matter, and we -- on a
6 couple of hours of debate, we've had some
7 public testimony, you know, going around the
8 state, but the Legislature has mechanisms in
9 place where they go through a whole lot more
10 than what we've gone through in this short
11 period of time.

12 They have testimony, real testimony,
13 regarding all the issues and issues that I've
14 brought up and that everybody has brought up.
15 The Legislature is the best place to deal with
16 this.

17 After we put pregnant pigs in the
18 Constitution, what happened? Voters came back
19 and said, you know what, let's increase it to
20 60. They didn't do it -- what was being done
21 to the pigs was horrible, and everybody can
22 attest to that. But what was the voters'
23 response to that?

24 You know what, we shouldn't have done it,
25 let's raise it. And now we're looking to do

1 the same thing today. When they put the
2 pregnant pigs in, I'm sure that there were
3 pictures and there was horror stories and
4 everybody sighed and said, oh, my God, I can't
5 believe this is happening to pigs. And now you
6 go back and it's become kind of the joke of the
7 Constitution like, wow, they put pigs in the
8 Constitution.

9 We are doing the same exact thing today.
10 No matter how you feel, I mean, there's been
11 arguments about, you know, the treatment of the
12 animals, good and bad. There have been all
13 kind of arguments about takings and not
14 takings. I've put arguments about increased
15 gambling in this state.

16 There have been arguments all over the
17 place with this. But that's why we have a
18 Legislature, who has committees, and it goes
19 through five, six long committees and it's gone
20 through a couple of years. This isn't -- this
21 shouldn't be our legacy. We shouldn't be the
22 ones that one-up the pigs by putting dogs.
23 This is not something we should be doing.

24 I don't know -- I don't care how you feel
25 about the racing, however you feel about

1 ethical treatment of animals, this isn't
2 something we should be doing in this
3 Constitution. Let the Legislature deal with it
4 like the Legislature should and must deal with
5 it. Let's not one-up the pigs by adding dogs.
6 Let's not be the Commission to do that.

7 Thank you.

8 CHAIRMAN BERUFF: Further debate?

9 Commissioner Thurlow-Lippisch is
10 recognized.

11 COMMISSIONER THURLOW-LIPPISCH: Thank you.

12 Thank you very much.

13 There was a question from Commissioner
14 Smith, who I have great respect for, and the
15 question was, why are we here. And we all know
16 that the answer to that question is we are here
17 to do the will of the people. That is why we
18 are here.

19 And I went to every single hearing, I have
20 attended every single thing. Not to pat myself
21 on the back, but Mrs. Timmann -- Commissioner
22 Timmann said I might get the attendance --
23 perfect attendance award because I have --

24 CHAIRMAN BERUFF: We have a plaque up here
25 for you.

1 COMMISSIONER THURLOW-LIPPISCH: -- and I
2 am very fortunate that where I am in my life,
3 that I can be so devoted to -- to being at
4 everything.

5 And I will tell you that the number one
6 thing that came up from the people was the
7 greyhounds. They were there every time, and
8 sometimes it was perhaps 50 percent of the time
9 I spent at a hearing, 25 percent, 20 percent.
10 We must put this on the ballot for the people
11 to decide because the people on both sides have
12 asked for this. Thank you.

13 CHAIRMAN BERUFF: Commissioner Keiser is
14 recognized.

15 COMMISSIONER KEISER: I, too, have
16 tremendous respect for Commissioner Smith. I
17 do see this issue very differently than he
18 does.

19 First of all, I agree with Commissioner
20 Thurlow-Lippisch. I, too, attended most of the
21 public hearings, with the exception of Miami
22 because I was stuck in Washington working there
23 and not able to get out because of the weather.

24 I believe that we have an opportunity, and
25 we are, of course, different than the

1 Legislature, and that opportunity is to make
2 sure that when the voices of the public are to
3 the level that we experienced, whether we agree
4 or not, I believe there is an obligation,
5 again, whether we agree or not, to bring
6 something of this nature forward, because at
7 least in my experience with the thousands of
8 e-mails -- which is a great thing about this
9 process, the many public hearings, social
10 media, the articles, the various ways they
11 contacted us.

12 I can remember the postcard which we all
13 received, right, with the greyhound's photo on
14 it. This is extremely important to many
15 citizens in the state of Florida. And I do
16 understand it's our State Constitution and I do
17 understand that it is our foundational
18 document, and I still believe that we need to
19 bring this forward so the public can decide
20 what they would like to do.

21 CHAIRMAN BERUFF: Debate on Revision 12,
22 6012?

23 Commissioner Joyner is recognized. I
24 guess my brevity comment hasn't gone over very
25 well.

1 COMMISSIONER JOYNER: Thank you,
2 Mr. Chair. Can't make that promise.

3 Senator Smith and I share common
4 background and work in the Legislature, and I
5 am supporting him on this. You know, we've
6 talked about the will of the people, and we've
7 heard a lot of the people about a lot of issues
8 that we didn't bring up in here. The people
9 came and asked us to ban assault weapons long
10 after we had concluded the process, but we had
11 an opportunity to do it, but we wouldn't dare
12 touch guns.

13 We had people who are employed at dog
14 tracks. This is how they make their living,
15 this is all they know. And they came and said,
16 "Consider us, this is our livelihood, this is
17 all I've done for 50 years. You close us down
18 and you close me down."

19 We heard two sides. We heard people
20 organized by the lobby that's opposed to
21 greyhound racing, and they came in great
22 numbers from all over the country. One
23 gentleman said he drove 957 miles from Maryland
24 to come and testify why he thought we needed to
25 ban greyhound racing in Florida. So it wasn't

1 all Florida.

2 It wasn't people who didn't have a vested
3 interest in what we were doing. We had people
4 in Tampa, people in Jacksonville, people in
5 South Florida, people who work at dog tracks,
6 and the one in Tampa and St. Pete who said, "We
7 love our dogs, we take care of them." But
8 today we are throwing what they said out the
9 window and only considering the people who want
10 us to ban dogs from racing.

11 You know, we've done it years in this
12 state, and now there's this big interest in
13 ending it, but nobody cares about those
14 families who came out and said, "This is all I
15 know how to do. Don't take my livelihood
16 away." Like taking my license to practice law.
17 Well, I could become a paralegal and still make
18 a living. I don't know what they can do, what
19 they've been trained to do.

20 So there are two sides to every story, and
21 we need to consider that. Everybody talks
22 about how many people showed up. Of course,
23 they had an organized effort by a national
24 organization to do -- and they showed up in big
25 numbers. And I could do the same thing,

1 organize my group and come out. Everybody did
2 on all of the issues.

3 So you can't take the numbers and say this
4 is it. You know, for the Parkland families,
5 they came when they could and they asked, and
6 we said no here because it would violate the
7 rules. We got rules for a reason. We didn't
8 do it. But I have to look at both in
9 considering what it is that I want to do today,
10 and I -- I'm not perplexed by it at all.

11 I just think, coming from my background
12 and my perspective and knowing how difficult it
13 is for people to make a living, then I see it
14 differently from most of you. You know, your
15 dad didn't make \$25 -- no, what did he -- he
16 told us that he made 25 cents a day when he was
17 a man, when black men and black people didn't
18 make real money, any money, 25 cents.

19 Left home barefooted, but he made it. He
20 made it because somebody believed in him and
21 said "I will give him an opportunity." Today
22 we are seeking to take it away from these
23 hard-working people, and we have to balance
24 this.

25 We can fix this. We can find a way to do

1 a better job of fixing it. I know that they
2 have to report deaths and do other things, but
3 have we done enough to fix it in the
4 Legislature? And I -- it's my position that we
5 haven't. And I don't want to deny or take away
6 a person's right to earn a living when there is
7 a solution to this short of putting it in the
8 Constitution.

9 CHAIRMAN BERUFF: Commissioner Gaetz, then
10 Commissioner Coxe.

11 COMMISSIONER GAETZ: Thank you very much,
12 Mr. Chairman.

13 I am co-sponsor of this measure and I
14 believe the Legislature should do it. The
15 problem is the Legislature won't do it, can't
16 do it, hasn't done it. And the reason is not a
17 structural reason. The reason is a practical
18 reason, and Senator Joyner and Senator Smith
19 know it well, they know it very well, because
20 they sat in the Senate when we almost
21 unanimously decoupled greyhound racing from
22 betting and we sent the Bill to the House of
23 Representatives.

24 And the House of Representatives wanted to
25 take it up, but the Speaker called me and he

1 said, "Don, I can't take it up because if I do,
2 I will -- I have to open that chapter of law
3 that deals with -- with gaming, and when I do
4 that, I can already tell you about the
5 amendments that are being drafted as we speak
6 to add casinos and rework the Compact and deal
7 with parimutuels and incr- -- it's a kind of
8 terrible kaleidoscope of ongoing consequences
9 that occur when you open up the gaming chapter
10 of Florida Statutes."

11 And so twice we sent it over, and twice
12 the House couldn't take it up, not because the
13 House Speaker at the time didn't feel as though
14 it was the right thing to do, not because he
15 didn't personally support it, but because he
16 knew that by opening that chapter of law, he
17 would be in a kind of swamp land of gaming
18 issues that could never be waded through, and
19 we would never get the decoupling and, instead,
20 we'd be in a whole different world of trying to
21 fight off dramatic expansions of gaming.

22 So that's why it won't be done, can't be
23 done, hasn't been done in the Legislature. I
24 wish it could be. I wanted to do it. I tried
25 to do it. So did the other Senators and former

1 Senators who are on this floor, because they
2 all voted for it.

3 The problem that we have, though, is that
4 we have no other way to do it because gaming is
5 in the Constitution, and here's the cautionary
6 tale, my friends: When you put some little
7 reference to something in the Constitution,
8 then when you want to go back and deal with
9 that subject again, you've got a constitutional
10 matter.

11 That is why our Constitution is eight
12 times longer than the Federal Constitution. It
13 takes 58,000 words just to get the State of
14 Florida moving in the morning because of the
15 fact that we've had this growth in
16 constitutional provisions. But we are where we
17 are with respect to gaming.

18 CHAIRMAN BERUFF: Okay.

19 COMMISSIONER GAETZ: And, Mr. Chairman,
20 the -- this is an industry which only exists
21 because the government requires it to exist.
22 It exists because the government mandates that
23 it exist, and it exists in a world in which it
24 costs more to enforce the rules that we try to
25 enforce on this industry than the tax revenues

1 that we get from the industry. It is a loss
2 leader to the taxpayers and it is a
3 government-sponsored industry and a
4 government-mandated industry. And for that
5 reason as well, it's time that it be reformed.

6 The -- the other problem we have is that
7 the industry won't reform itself. We've tried
8 to get Bills passed on injury reporting. We've
9 tried to get Bills passed on doping. And every
10 time we have, there are fine and good people in
11 this industry, but the -- the mass of the
12 industry has come forward with their lobbyists
13 to do everything they could to stop them from
14 reforming themselves and stop the reasonable
15 regulation of the industry.

16 And so we are left in a position where in
17 order to do what is right, we have no option
18 practically other than a constitutional option.
19 It is time to do what is right with this issue.
20 It is time to sort of quit waving the bloody
21 flag of let the Legislature do it when we know
22 that there are reasons why they can't and
23 won't.

24 It is time to pass this provision and let
25 the people of Florida decide if they want to

1 continue this as part of our culture or if they
2 want to get rid of it.

3 CHAIRMAN BERUFF: Commissioner Coxe, do
4 you still want to be recognized?

5 COMMISSIONER COXE: Yes.

6 CHAIRMAN BERUFF: Go ahead.

7 COMMISSIONER COXE: Thank you, Mr. Chair.

8 The issue, obviously, implicates a number
9 of considerations. One is love for animals.
10 I've never in my entire life been without at
11 least one dog, my entire life. So it's not a
12 matter of affection for dogs.

13 I've listened to Commissioner Stemberger
14 talk about his analysis about what should be in
15 the Constitution. I've listened to
16 Commissioner Solari talk about his. I've
17 listened to Commissioner Heuchan for a long
18 time repeatedly talk about his analysis. I
19 heard Commissioner Gaetz say that the Senate
20 has tried and tried on the decoupling,
21 unsuccessfully, because of the house. I asked
22 Commissioner Sprowls, "Why haven't you
23 decoupled?" He says, "The Senate won't do it."
24 I'm serious. And that was 15 minutes ago. I
25 asked -- did I not? Hand him a microphone, I

1 want to ask him. He said, "It's all the
2 Senate's fault."

3 COMMISSIONER COXE: Yeah. So -- so here
4 we are. Here we are right now.

5 At some point -- at some point, I think,
6 unlike Commissioner Gaetz, we have to say man
7 up, man up and do your job. It is not our job
8 to bail the Legislature out every time they
9 don't have the courage to do what they ought to
10 be doing. This is an issue the Legislature
11 should have taken care of. They should have
12 decoupled, they should have banned the inhumane
13 treatment of the dogs, and that is their
14 responsibility.

15 It cannot be our responsibility to go this
16 far with this revision, Commission, and ban
17 greyhound racing.

18 CHAIRMAN BERUFF: Further debate? I'm
19 trying to ignore this side of the room.
20 Commissioner Heuchan is recognized.

21 COMMISSIONER HEUCHAN: All right,
22 Chairman, I will be quick because Gaetz took a
23 lot of what I wanted to say.

24 But I am going to vote for this for the
25 precise reasons that Commissioner Coxé

1 mentioned. You know, there -- a lot of these
2 things -- I mean, you know, and this was talked
3 about before on the floor. I don't know who
4 mentioned it. Maybe Commissioner Smith
5 mentioned it. This is one of those things,
6 it's like, man, we are -- to listen to the --
7 to the different sides of this, whether it is
8 Commissioner Stemberger's and I complete
9 180-degree opposite views of what belongs and
10 what doesn't belong and what our job is in
11 doing here, these modernization things, we --
12 we just disagree.

13 That's okay, I love him all the same. But
14 this -- this -- this is not about -- and
15 President Lee did mention this last time. This
16 is not an indictment of all breeders, of all
17 tracks, of everything that happens out there.
18 This -- just in that industry -- like there are
19 bad lawyers, there are bad lobbyists, there are
20 good Senators, there are bad Senators, there's
21 good and bad in every industry and -- and my --
22 as I mentioned before, my heart has broken for
23 some of those families that do it right.

24 But here's the thing: It is inherently
25 dangerous to go at 40 miles per hour around a

1 track when you have flesh and bone. It is just
2 inherently dan- -- just set aside what happens
3 inside the cages, whether they're at the farms
4 or they're at the tracks, set that aside for a
5 second. Just think about a dog running around
6 a track at that speed, and human beings betting
7 on that for fun. I don't understand that. I
8 just don't in this day and age.

9 I was going to address something that was
10 said earlier about the taking of jobs. The
11 Legislature does it all the time, whether we
12 are talking about tort reform or this business
13 or that business, Commissioner Diaz, three --
14 alcohol distribution, every single year someone
15 is affected and someone is disaffected.
16 Controversy creates that.

17 There's a whole industry out on that
18 fourth floor to protect, advance, and oppose
19 things just like this. We did it earlier
20 today. How about the people that make the
21 vaping JUUL pen things? Or the people that
22 make the rigs that are going to sit up a couple
23 miles off our shore? The Legislature does it
24 all the time.

25 And so this idea that -- you know, that we

1 can't make a statement just simply by giving
2 the voters something to consider, we are not
3 doing it ourselves, and it is a slippery slope
4 for us. I know we all think that, oh, we know
5 what's going to happen. We don't know what's
6 going to happen when these things go to the
7 ballot.

8 And with that, Mr. Chairman, I appreciate
9 the extra time and I am going to be voting for
10 this.

11 CHAIRMAN BERUFF: Commissioner Stemberger.

12 COMMISSIONER STEMBERGER: So the last time
13 I spoke on this, we had four minutes on the
14 clock and I spoke very fast, so I wanted to
15 take more time.

16 CHAIRMAN BERUFF: You have 30 seconds now.

17 COMMISSIONER STEMBERGER: Thank you, Mr.
18 Chairman.

19 I described this issue before as Rubik's
20 cube, and for me, it was, because I tried as
21 hard as I could and I've spent hours and hours
22 working, running, exercising, thinking about
23 this issue, talking to people. Grey2K's
24 lawyers were very, very helpful. They wrote
25 memos to me. I had lots of questions. And I

1 just -- I'm torn.

2 I'm torn more than any other issue we've
3 talked about on this because I'm torn between
4 what is right and what is just in my view. And
5 so that is -- that is the crucible that I find
6 myself in.

7 I did visit -- I think I'm the only
8 Commissioner that actually visited a kennel. I
9 gave them ten minutes' notice. It was in
10 Sanford. Came back from a church event, and I
11 called him on a Saturday and said, "Hey, I'm a
12 Commissioner, I'm coming over." I came over
13 with no notice, and I just want you to know
14 what I learned.

15 First of all, I -- we're not dog people,
16 never owned dogs, never went to a track. I am
17 very much against gambling. Probably the
18 fiercest opponent of gambling in this room.
19 But that didn't come in my mind. I was trying
20 to understand the issue, all sides.

21 So I went. The first thing is I fell in
22 love with these animals because they are
23 beautiful, they are graceful, and they are
24 remarkable, unique. And I want one, too, by
25 the way, if they're being adopted. And we've

1 never owned dogs in our house. But they are
2 very peaceful animals and I fell in love with
3 them.

4 One thing that amazed me is that when I
5 walked into the cage room -- every pet shop
6 I've ever been to stunk, and this place smelled
7 very clean. I smelled -- if I was -- had a
8 blindfold on, I couldn't even smell dogs. So I
9 was -- I was amazed at how clean it was. They
10 were very upfront with me. They actually
11 showed me dogs that were -- their arms were
12 broken. They allowed me to touch the bones.
13 So they weren't hiding anything.

14 The 4D meat, my understanding is when a
15 cow breaks its leg and falls to the ground,
16 that's not USA Grade A meat, and they make dog
17 food out of it. I'm not sure about the
18 charcoal piece. I can see where these animals
19 shouldn't be locked up. In their normal state,
20 they would have free movement in a yard or
21 wherever it is. I can see that.

22 I watched a couple of races. I understand
23 that they break their legs primarily by running
24 into each other and colliding with each other
25 at a very high speed, and that's how a lot of

1 the injuries happen.

2 I was distressed by both sides. I think
3 you talked about a jury trial that was
4 listening to all these people, and it did seem
5 like both sides had exaggerations and untruths
6 coming forward.

7 In the end, I -- I really did try to find
8 a way to justify this. I would love to just
9 say I ignore my principles, so to speak, and do
10 what it's just here. I do think this industry
11 should end. I just can't simply vote for it
12 myself at this time.

13 Thank you.

14 CHAIRMAN BERUFF: Further -- would you
15 like to close, Commissioner Heuchan, on 6012?

16 COMMISSIONER HEUCHAN: I waive my close,
17 Chairman.

18 CHAIRMAN BERUFF: Please open the board
19 and vote. Oh, quorum, please. Reset the
20 board. I want to check for a quorum.

21 THE SECRETARY: Quorum call, quorum call.
22 All Commissioners indicate your presence. All
23 Commissioners indicate your presence. Quorum
24 call, quorum call.

25 CHAIRMAN BERUFF: There we go.

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

3 CHAIRMAN BERUFF: Thank you. Reset.

4 Okay. Will the Commissioners vote on 6012
5 as amended?

6 Close the board and announce the tally,
7 please.

8 THE SECRETARY: Twenty-seven yea's, ten
9 nay's, Mr. Chair.

10 CHAIRMAN BERUFF: The revision is adopted
11 as amended. It is ordered engrossed and shall
12 be submitted to the Secretary of State to be
13 placed on the ballot, November 6, 2018, general
14 election.

15 Who would like to be sponsors on this
16 since I keep forgetting that process? What?
17 Point of order? I'm sorry, what is the point
18 of order?

19 Open up the board, excuse me. Those that
20 want to sponsor, join the group. Motion to
21 co-introduce. There you go. Okay, everybody
22 -- there you go. That's the tally, close it.
23 Thank you.

24 All right. So we have a few minutes under
25 our notice provision till 6:00 p.m. this

1 evening. So I am going to ask for a show of
2 hands. The proposals -- you guys have done
3 such a great job, that we're really down to the
4 finale here. We have, I think -- is there a
5 proposal being withdrawn or a -- Commissioner
6 Stemberger has asked that 6011 be withdrawn.
7 So that leaves us with three to consider.

8 Okay. So what I would like to know --
9 because at the end of the day this is a
10 democracy, though I like to be a dictator, but
11 it doesn't work. By a show of hands, who wants
12 to work through and try to get these three done
13 tonight, and who would like to stay here for
14 another day and do them in the morning? Wait,
15 wait, I'm sorry.

16 All those in favor of working through and
17 getting the three done tonight, raise your
18 hand?

19 Okay. Did everybody hear the question?
20 Working tonight and get it done.

21 All those that want to come back and
22 finish in the morning, raise your hands.

23 I think the people who want to work
24 through tonight have it. So I am going to
25 request that Commissioner Cerio, if you would

1 entertain extending our notice to, I don't
2 know, let's try 8:00 o'clock.

3 Oh, Commissioner Cerio is recognized,
4 apologize.

5 COMMISSIONER CERIO: Mr. Chair, so moved
6 as you've suggested. Move that we waive the
7 rules to extend our time until 8:00 p.m. this
8 evening.

9 CHAIRMAN BERUFF: Okay. Do we have to
10 vote on that?

11 COMMISSIONER CERIO: Two-thirds.

12 CHAIRMAN BERUFF: That is a voice vote,
13 right? All those in favor to extend it to 8:00
14 p.m., please signify by saying yea.

15 (Chorus of yea's.)

16 CHAIRMAN BERUFF: All those against, nay.

17 (Chorus of nay's.)

18 CHAIRMAN BERUFF: The yea's have it.

19 We'll keep on working.

20 All right. Yes, please.

21 COMMISSIONER GAETZ: Mr. Chairman, in view
22 of the fact that we are going to continue
23 working, would it be all right with you that we
24 take a 10 or 15-minute recess and then come
25 back and hit it hard?

1 CHAIRMAN BERUFF: Let's make it 10 minutes
2 because there's dinner waiting for us down the
3 street, so --

4 COMMISSIONER GAETZ: Oh, sir, is that
5 right? Well, in that case, I withdraw my
6 request.

7 CHAIRMAN BERUFF: Okay. You're welcome to
8 wander down to the room for any needs you may
9 have, but there is -- there is -- we are going
10 to be meeting down the street.

11 Okay. So let's take up number -- back in
12 order -- I'm sorry, Commissioner Martinez,
13 would you like more time before we take up your
14 proposal, or are you ready?

15 COMMISSIONER MARTINEZ: I'm ready.

16 CHAIRMAN BERUFF: Okay. We wanted to
17 defer to Commissioner Martinez, who will now --
18 Commissioner Heuchan, if you will introduce
19 6008, we'd appreciate it.

20 COMMISSIONER HEUCHAN: Thank you,
21 Mr. Chairman.

22 Revision number eight is PCP 6008. The
23 substance of Revision 8 is exclusively Proposal
24 No. 93 by Commissioner Martinez. The title of
25 this amendment reads "Innovation School

1 Districts."

2 Proposal 93 was initially discussed, as I
3 mentioned before, as part of Revision 3, but
4 this was disaggregated from that grouping for
5 the reasons that I had mentioned earlier.

6 Similar to the -- now, back -- I'm going
7 to talk just for a second on the amendment to
8 Revision 8 that was adopted by Style and
9 Drafting. This is -- had the same effect as an
10 amendment that was adopted on Proposal 71. It
11 clarifies that the school districts, which are
12 areas of land, do not establish schools.
13 School boards, which are bodies that govern the
14 districts, establish the schools.

15 And Commissioner Stargel was the offerer
16 or introducer of that amendment, and I know
17 Commissioner Martinez can talk to -- to that if
18 there's a question about the amendment.

19 CHAIRMAN BERUFF: There's -- there's no
20 amendment.

21 COMMISSIONER HEUCHAN: Chairman, the
22 amendment that was adopted in Style and
23 Drafting is what I'm referring to.

24 CHAIRMAN BERUFF: Okay, I'm sorry.

25 Okay. So we will listen to questions on

1 6008. Questions on 6008. I don't see any
2 questions on 6008.

3 Do we have -- I'm going to close the floor
4 on questions on 6008 and move into debate on
5 6008. Debate on 6008? 6008, debate? Okay.
6 Going once, going twice. No debate. Oh, there
7 is -- Commissioner Donalds is recognized.

8 COMMISSIONER DONALDS: Actually, you
9 should have taken a short recess. I'm sorry, I
10 had to.

11 CHAIRMAN BERUFF: What's up with that?

12 COMMISSIONER DONALDS: I shall debate to
13 whoever is here, I suppose, and leave time for
14 others.

15 I -- and I appreciate the work that was
16 done on this, and I did vote for it to go to
17 Style and Drafting in the hopes that all of the
18 K to 12 education proposals perhaps could be
19 put together and this might complement and be
20 somewhat of a compromise position for some of
21 the things that I put forward.

22 However, I cannot support this proposal as
23 a stand-alone amendment, and for several
24 reasons, many of the reasons that I didn't
25 support the proposal as it moved through the

1 committee process, primarily that the
2 Legislature has already and certainly can
3 exercise this in providing this flexibility to
4 districts that may qualify, and, in fact,
5 historically, the Legislature has provided a
6 lot of these flexibilities to high-performing
7 districts.

8 Going back to the charter school
9 districts' pilot program, which was operated
10 from '99 to 2010, the academically
11 high-performing school districts, which is in
12 place now and no exemptions have been exercised
13 under that since 2014, 2015, District
14 Innovation Schools of Technology, which is in
15 place now, Schools of Choice, which is in place
16 now since 2013, school district construction
17 flexibility -- I think Commissioner
18 Kruppenbacher had mentioned about SREF and his
19 concern that districts did not have flexibility
20 under SREF.

21 The Legislature did expand on school
22 district flexibility under SREF this year, and
23 so except for if a district doesn't have enough
24 hurricane shelter space, they now have the
25 flexibility they were asking for under SREF and

1 the building codes that charter schools have as
2 well.

3 The Schools of Excellence program, which
4 is in place now and some districts are taking
5 advantage of that, Principal Autonomy Pilot
6 Program. They are -- as far as I can see --
7 and perhaps the sponsor would -- would
8 enlighten to other flexibilities that are not
9 currently offered in legislation -- I don't see
10 flexibilities here that are not already offered
11 in one of these programs, or that have not been
12 put in place by the Legislature this year,
13 including the SREF flexibility, except in the
14 case where hurricane shelters are needed.

15 The one flexibility, of course, that is
16 not provided is flexibility on collective
17 bargaining, but I think in -- to be on this
18 proposal, it was said that that is not a
19 flexibility that would be available to these
20 high-performing districts. That,
21 unfortunately, would be one I would support.

22 However, this proposal I do not think does
23 anything beyond what the Legislature has
24 already been able to do for our high-performing
25 school districts, and, therefore, I cannot

1 support it.

2 CHAIRMAN BERUFF: Debate? No further
3 debate on 6009? 6008, sorry about that. 6008.

4 Okay. Mr. Heuchan, would you like to
5 close on 6008? Excuse me, I'm sorry, did you
6 want to debate? I apologize. Is it debate?

7 COMMISSIONER MARTINEZ: Mr. Chair, will I
8 be able to speak later on?

9 CHAIRMAN BERUFF: On this issue?

10 COMMISSIONER MARTINEZ: On this amendment,
11 yes, on this revision.

12 CHAIRMAN BERUFF: No. Speak now then.

13 COMMISSIONER MARTINEZ: I'm sorry.

14 CHAIRMAN BERUFF: Debate or -- I
15 usually -- Heuchan closes, but if you would
16 like to try to attempt to close, that would --

17 COMMISSIONER MARTINEZ: Okay. Thank you
18 very much, Mr. Chair.

19 It would seem to me that if somebody is
20 for innovation, if somebody is for competition,
21 if somebody is for flexibility with regards to
22 how we provide our education, and if somebody
23 wants that type of competition, flexibility,
24 and innovation with regards to charter schools,
25 that that person should also support it with

1 regards to our traditional public schools. I
2 fail to see why you wouldn't support that,
3 Commissioner Donalds.

4 The fact that it's not bundled with P-71
5 doesn't take anything away from its merits. It
6 stands alone and it stands bundled with the
7 same proposition, that is to encourage
8 innovation and competition and flexibility
9 among all schools. It would seem to me that
10 the public charter schools would want that
11 competition if all competition is good.

12 Now, you say why do we need it? Because
13 it would enshrine it in the Constitution. It
14 would enshrine it in the Constitution so that
15 next year or the year after, if the Legislature
16 were to take away some of these statutes, some
17 of the flexibility that they have provided to
18 the public schools, then the public schools --
19 the parents, the parents who have children in
20 public schools can go to the Legislature and
21 say, "It's in the Constitution."

22 We want that flexibility. We want to be
23 able to innovate. We want to be able to
24 compete with the charter schools.

25 So it seems to me that the folks who are

1 advocates for choice, the folks who are
2 advocates for innovation, and the folks who are
3 advocates for competition with regards to
4 education should also be supporting this
5 particular amendment. I don't see why the
6 charter school people don't get behind it,
7 unless they don't want the competition. And if
8 that is the case, then I think it should be
9 stated explicitly.

10 So I would encourage everybody here that
11 supports competition, innovation, and
12 flexibility and thinks that that's the way that
13 we improve everything in life, including the
14 education of our children, to give the parents
15 who have children in public schools that same
16 right.

17 Thank you.

18 CHAIRMAN BERUFF: Further debate on 6008?

19 Not seeing any further debate, then back
20 to Mr. Heuchan to close.

21 COMMISSIONER HEUCHAN: I waive close.

22 CHAIRMAN BERUFF: Okay. Quorum call,
23 please, Ms. Madam Secretary.

24 THE SECRETARY: Quorum call, quorum call.
25 All Commissioners indicate your presence. All

1 Commissioners indicate your presence. Quorum
2 call, quorum call. All Commissioners indicate
3 your presence. Quorum call. Quorum call. All
4 Commissioners indicate your presence.

5 CHAIRMAN BERUFF: Okay. Commissioner
6 Plymale, you're there?

7 Commissioner Schifino? He's missing. I'm
8 sure he will be back.

9 Commissioner Sprowls has left.

10 Okay. Do we have a quorum?

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

13 CHAIRMAN BERUFF: Thank you.

14 All right, folks, open up the board and
15 vote.

16 Okay. Close the board and announce the
17 tally, please.

18 THE SECRETARY: Thirteen yea's, 23 nay's,
19 Mr. Chair.

20 CHAIRMAN BERUFF: The revision did not
21 receive the necessary 22 votes, so the revision
22 fails.

23 Let's go on to 6010. Commissioner
24 Heuchan, would you like to introduce 6010,
25 please?

1 COMMISSIONER HEUCHAN: Yes, sir. Thank
2 you, Mr. Chairman.

3 This is Revision No. 10, PCP 6010. The
4 substance of this proposal is the exclusive
5 substance of Proposal 29 by Commissioner
6 Newsome. The title of this revision reads
7 "Employment Eligibility Verification."

8 Like Proposal 11 and Proposal 29, this
9 proposal received less than 22 votes. So based
10 on the rationale I had explained earlier, this
11 one was left by itself. But as I want to
12 reiterate, that fact should not be construed to
13 mean that anything other than that was the
14 rationale that the committee made to leave it
15 by itself.

16 The Proposal 29 was amended in Style and
17 Drafting, and it clarifies that the employment
18 eligibility verification implemented by the
19 Legislature shall only apply to employees hired
20 after the ratification of the amendment. So it
21 is prospective. That's the explanation of
22 Revision 6010.

23 CHAIRMAN BERUFF: Thank you, Commissioner.

24 We are now taking questions on 6009. Oh,
25 we did?

1 COMMISSIONER HEUCHAN: Mr. Chairman, we're
2 on 6010.

3 CHAIRMAN BERUFF: I apologize. I messed
4 up and jumped overboard. It was not
5 intentional.

6 So we can just stay on 6010. Questions on
7 6010? Questions on 6010?

8 Okay. Debate on 6010?

9 Commissioner Newsome is recognized.

10 COMMISSIONER NEWSOME: So I think everyone
11 knows what this is about. This is what's been
12 somewhat sometimes called the e-verify, but
13 it's not any more.

14 Through a process of amendments, both here
15 and in Style and Drafting, we have brought this
16 to a place where Commissioner Nocco and others
17 who had some concerns are not only comfortable
18 with, but supporting.

19 There's been a lot of lobbyists involved
20 in this. We've all gotten phone calls.
21 There's been some very wealthy folks that are
22 part of the establishment that don't like this.

23 But I want to just take a minute, and I'm
24 going to be short. I know we all want to get
25 out of here, but just hopefully five minutes.

1 But I want to talk about the 2018 elections --
2 or, I'm sorry, the 2016 elections and what
3 happened, both for Republicans and for
4 Democrats. And we saw this -- this activism by
5 workers on both Republicans and the Democratic
6 side of the fence, traditional Democratic
7 blue-collar folks that came over and voted
8 Republican, Republicans who were ignited around
9 the issue of immigration.

10 Now, this is a volatile issue. It's why,
11 gosh, no one would sponsor this. I am the
12 unlikely messenger for this. This is not
13 something that I am passionate about. I
14 believe in it, but I came here for the ethics
15 thing that Senator Gaetz passed today. That
16 was my issue. That's why I asked to be on this
17 Commission.

18 But this is something that matters to the
19 voters, matters to the people on both sides of
20 the aisle, and it is so charged and so
21 controversial, nobody wanted to touch this
22 thing, but this is a way of potentially solving
23 a huge problem in this country, at least a baby
24 step towards it perhaps, in a way that's not
25 callous.

1 We don't have to build a wall to help stop
2 the problem of undocumented workers and all of
3 the nightmares that creates, not just for the
4 workers, but for the legal workers and for the
5 businesses that are trying to follow the law.
6 But this is a way that brings everyone into the
7 sunshine.

8 It is not going to be retrospective. It
9 is only prospective so that the employers and
10 the workers who are engaged right now don't
11 have to worry about firing people, but it is a
12 prospective process that the Legislature is
13 going to have to figure out, that the
14 Legislature is going to have enact. This thing
15 polls off of the charts.

16 So, again, going back to those three
17 factors that some of us talked about earlier,
18 that I talked about, that the voters have to be
19 for it, that the Legislature -- it is something
20 difficult to do. We know that now. We've seen
21 what happens when the lobbyists get charged up
22 and then there is -- when there's money behind
23 this thing. And so this is hopefully going to
24 give the impetus for this to happen.

25 So a vote no, though, for this, is a vote

1 for the status quo. A vote no is a vote for
2 the status quo, the status quo of having
3 undocumented workers be subject to the kinds of
4 things that the *Naples Daily News* reported. Or
5 when there's an injury or someone gets hurt or
6 if someone needs health care, someone's child
7 is sick, they just fire them, fire them, and
8 then call ICE to come pick them up.

9 These workers have no protections right
10 now under the law because it's all in the -- in
11 the darkness. The legal workers, the folks
12 that I met with down in Immokalee, who used to
13 be able to make a living in agriculture can't
14 do it anymore. Americans can't make a living
15 because of the suppressed wages that the
16 undocumented workers are willing to take.

17 So it is the -- it's for the undocumented
18 workers, it's for the -- the folks who are here
19 legally, and it's for the folks like my friend,
20 John Crown who owns this commercial painting
21 company in Orlando, trying to follow the law,
22 trying to follow the law, but is getting
23 hammered by his competitor, who is willing to
24 pay undocumented workers cash out of the back
25 of his car.

1 So that's who this is for. It's for all
2 workers, both documented and undocumented. It
3 is for the folks who are trying to follow the
4 law.

5 The only folks who don't like this? The
6 establishment. The folks who are right now so
7 happy with the ability to get cheap labor that
8 they can fire when they're hurt. That's who is
9 for this -- or who is against it, rather.
10 That's who is paying for these lobbyists that
11 we've seen to come out in droves and the
12 lobbyists individually and the newspaper and
13 media coverage.

14 So if you're for the status quo, vote no,
15 but if you're for a change, if you want to try
16 to help solve this problem, then vote yes. The
17 voters want it. The Legislature can't do it
18 because they're going to be faced with the same
19 types of lobbyists.

20 And, you know, I want to address something
21 briefly. I know some of the folks here are
22 passionate about -- you know, my friend, John
23 struggled with this issue because, gosh, it
24 doesn't belong in the Constitution. Well, for
25 those of us who have voted for things like

1 vaping, okay, for those of us who voted for
2 things like the offshore oil drilling, gosh,
3 come -- for those of us who voted for the dog
4 track issues, to the extent that that is the
5 argument and you voted for any one of those
6 things, then it is a hollow argument.

7 It is a hollow argument because this does
8 involve an issue that should be in the
9 Constitution, which is the right to a fair and
10 legal workplace. Every American has the right
11 to a fair job, but when you can't compete on
12 wages and when you can't compete with your
13 competitor who's paying cash out of the back of
14 the trunk, then that is a fundamental right
15 that has been violated.

16 So I would suggest that if you want to
17 change the status quo and help solve this
18 problem in a compassionate way -- this is not
19 going to happen overnight. It is two years
20 from now that the Legislature has to do
21 something. It doesn't have to be e-verify, but
22 it has to be something that we can do to bring
23 everyone into the sunshine, to bring everyone
24 within the protection of the law, so that it's
25 an equal playing field for everyone, both

1 workers and employers.

2 And I want to finally address the fear,
3 oh, gosh, it's not going to work, there's all
4 these terrible things that are going to happen.
5 We all got the letter. No, there's 13 other
6 states where this has happened. And we can
7 trust the Legislature to come up with a way
8 that there's going to be safety valves for the
9 horrors that have been, you know, claimed. And
10 I would suggest that it is our time to grab
11 onto hope and not be run off by fear.

12 And so in favor of overcoming the status
13 quo, in favor of hope, in favor of protecting
14 the undocumented wor- -- undocumented workers,
15 the legal workers and the folks -- the
16 businesses who are trying to follow the law,
17 then I implore you to please vote for this.

18 I realize this is an uphill battle, and,
19 again, I am not the guy that came into this
20 thinking I would be the -- the carrier of this
21 message, but it is the right thing to do. So I
22 challenge you all to -- to look past the fear,
23 to look past all of the objections based upon
24 some -- some artificial constructs of what the
25 Constitution should or shouldn't be, and let's

1 do the right thing for these workers and for
2 the businesses that are following the law.

3 Thanks.

4 CHAIRMAN BERUFF: Commissioner --

5 COMMISSIONER SCHIFINO: Thank you, Chair
6 Beruff. A couple of comments.

7 Well done. And I know you are passionate
8 about this particular proposal. And when it
9 was initially made in its initial format, I
10 understood it.

11 But I want to be clear. I'm certainly not
12 run off by fear. I certainly support a level
13 playing field. I am not for the status quo. I
14 love change. And I absolutely want a fair and
15 legal workplace. And I mean all of that,
16 not -- and I'm not being sarcastic at all.

17 But this is posed -- and I missed the Q&A
18 part, my bad. The Chair is down, so maybe I
19 can sneak this question in.

20 But as amended, what it says is that --
21 where -- I had it a minute ago. It essentially
22 says that what we'll do here is create
23 something to make sure we are complying with
24 federal law. And it has gone from a very -- I
25 think very -- very specific, you had guidelines

1 and recommendations and things you would have
2 put in place, and it was quite lengthy, but now
3 that's essentially all I am seeing it says.

4 And if you would -- wouldn't mind in
5 debate, just commenting on that, I'm not sure
6 what it's become other than a we shall comply
7 with federal law.

8 CHAIRMAN BERUFF: That's sort of a debate.

9 COMMISSIONER SCHIFINO: Kind of a
10 question. I missed it when you weren't
11 looking, I'm sorry.

12 CHAIRMAN BERUFF: That's because I had
13 Freddie doing it.

14 Commissioner Newsome is recognized.

15 COMMISSIONER NEWSOME: Thank you,
16 Mr. Chairman.

17 Well, I think that that's something the
18 Legislature can figure out, and it talks about
19 specifically immigration policy. And,
20 Commissioner Schifino, you are a lawyer. I
21 think if you and I were to be honest with each
22 other and get past all these other things and
23 really just sit down and try to craft some
24 legislation, how can we follow federal law and
25 make sure workers are legal, it ain't hard.

1 Let's be real honest and not use that as an
2 excuse to say no.

3 So if what we are concerned about, well,
4 we don't know what federal law means or harkens
5 back to that Saturday Night Life stuff, I'm
6 just a cave man. You know, come on. We can
7 figure this out. It's not that hard.

8 COMMISSIONER SCHIFINO: Chair Beruff, a
9 brief response, please?

10 CHAIRMAN BERUFF: Okay.

11 COMMISSIONER SCHIFINO: Let's make sure we
12 are clear. I wasn't suggesting we are cavemen.
13 I am suggesting very clearly that when you have
14 something that says our Constitution shall
15 follow the Federal Constitution, that's what
16 confused me. So my question was actually a
17 serious one as to what exactly we were trying
18 to accomplish with your proposal.

19 You know I respect you immensely, and what
20 I was trying to say was your initial proposal I
21 followed very clearly, it had very specific
22 things. Now is all it simply says is let's
23 have the Florida State Constitution say it will
24 follow the Federal Constitution. That's what I
25 was trying to flesh out.

1 CHAIRMAN BERUFF: Commissioner Smith is
2 recognized.

3 COMMISSIONER SMITH: And I guess along the
4 same line, and maybe if Commissioner Newsome
5 can answer it -- I ain't reading this thing,
6 and from what I see, we've already, what, 12,
7 13 deep on amendments so far on the ballot, now
8 we are about to add another one.

9 And from what I can read in this stuff --
10 and maybe somebody can explain to me -- what
11 does it do? It says, "We establish employment
12 eligibility verification process." We don't do
13 that already? The department don't look and
14 say, hey, can this person work here, and we're
15 going to follow federal law.

16 I don't really see the teeth enough that
17 this should be another paragraph on the ballot.
18 I guess -- maybe I am the caveman. I don't
19 know what this does and I don't know why we are
20 taking up space on the ballot to do it.

21 CHAIRMAN BERUFF: Commissioner Newsome.

22 COMMISSIONER NEWSOME: So, in response --
23 look, and I sincerely appreciate the argument.
24 If we have too many things on the ballot and
25 that's the argument, I get it, and that's fair.

1 But I think that the context of what this is
2 accomplishing is pretty clear.

3 Now, we had a very lengthy proposal that
4 was originally filed that came right from the
5 e-verify folks. But at the end of the day, the
6 very simple proposal that is left after a lot
7 of compromise and a lot of work by a lot of
8 different folks who are part of this process is
9 very simple. And right now the state does not
10 require this, does not require that there's
11 some verification that an employer has to go
12 through.

13 All we are saying -- because here's
14 what -- the reality, Senator Smith, is right
15 now, these companies know. They know that
16 they've got a whole fleet of people that are
17 not documented. And these workers, God bless
18 them, they come up with false papers and they
19 come up with enough to get past the -- sort of
20 the blinders test, but at the end of the day,
21 everybody knows what's going on.

22 These workers in certain industries like
23 ag and construction are almost whole cloth --
24 especially with some companies who want to do
25 it that way -- undocumented. It is a very

1 simple thing, and the gist of this is to have
2 the Legislature go and do a very simple thing
3 to require employers just to check or log on.
4 There's different ways they can do it, but it's
5 not hard and it's not what's being done right
6 now.

7 CHAIRMAN BERUFF: Commissioner Smith.

8 COMMISSIONER SMITH: And I guess that's
9 where I am. I mean, in your responses now, you
10 said they know how to get around it, they come
11 up with papers just enough to get by. Well,
12 the same thing happen -- and maybe I'm beating
13 a dead horse -- is that in reading these words
14 on here, I don't see the substantive change in
15 Florida law that we should be doing.

16 I see saying, Legislature, come up with an
17 auditing program, come up with a verification
18 process. To me, that is very statutory, and
19 for a Constitutional Amendment and -- I just
20 don't see it.

21 So, please, in your closing, try to
22 convince me as to this is a constitutional
23 issue and something that we should be putting
24 on there, something that -- I mean, it just
25 seems like a simple statutory thing to do.

1 CHAIRMAN BERUFF: Commissioner Newsome.

2 COMMISSIONER NEWSOME: Well, there's so
3 many things we've already voted on today. I
4 mean, gosh, I could go through the list, but
5 everything from offshore drilling to vape pens
6 to some of the other things, greyhounds, all of
7 these things could be statute.

8 There are a lot of things in the Florida
9 Constitution right now that point to federal
10 law, but there's a reason that we have this
11 process here. The Legislature could have done
12 single-member districts after *Baker versus Carr*
13 in '68, but they didn't because the pork
14 choppers kept preventing them from do it --
15 from doing it.

16 That's why we have this CRC safety valve
17 that allows situations where the people want
18 something done because it's the right thing to
19 do, and the Legislature simply can't -- like in
20 this situation, because of some very wealthy,
21 very powerful special interests that are
22 stakeholders in a broken system, they're going
23 to make sure the Legislature doesn't act.

24 So that's why we are here, I suggest.
25 This is the very kind of issue that the CRC was

1 created for.

2 CHAIRMAN BERUFF: Further debate on 6010?
3 6010? No more debate?

4 Let's go ahead and get a quorum call,
5 please, Madam Secretary.

6 THE SECRETARY: Quorum call, quorum call.
7 All Commissioners indicate your presence. All
8 Commissioners indicate your presence. Quorum
9 call, quorum call. All Commissioners indicate
10 your presence.

11 CHAIRMAN BERUFF: Clear the board and get
12 ready for a vote.

13 THE SECRETARY: A quorum present,
14 Mr. Chair.

15 CHAIRMAN BERUFF: All those in favor, you
16 know how to vote.

17 There's a close. The close belongs to
18 Mr. Heuchan. I thought he waived. Reset the
19 board. Reset the board. We are a very
20 civilized society. So if Mr. Heuchan would
21 like to defer close to Mr. Newsome --

22 COMMISSIONER HEUCHAN: Yes, sir.

23 CHAIRMAN BERUFF: -- we would allow that.

24 COMMISSIONER HEUCHAN: Yes, sir, Mr.
25 Chairman, if Mr. Newsome has more to say, he's

1 welcome to say it.

2 CHAIRMAN BERUFF: Mr. Newsome, please
3 close.

4 COMMISSIONER NEWSOME: I am going to keep
5 it short. I've said everything. I -- for all
6 of the reasons that we've talked about, this
7 does belong in the Constitution. This is for
8 the people. The people want this.

9 This is going to fix something for the
10 good of a lot of people on both sides of the
11 legal line in a compassionate way. It doesn't
12 happen overnight. It's certainly not going to
13 get anyone fired today because it's not
14 retrospective and it's not going to be for two
15 more years.

16 So let's please just listen to what was
17 said during these hearings, let's try to do the
18 right thing for the people and let them decide
19 whether they want this to be part of our
20 Constitution.

21 CHAIRMAN BERUFF: Thank you. Now we will
22 try this again.

23 Close the board and announce the tally,
24 please.

25 THE SECRETARY: Twelve yea's, 24 nay's,

1 Mr. Chair.

2 CHAIRMAN BERUFF: The revision did not
3 receive the necessary 22 votes, so the revision
4 failed.

5 I would like to, without objection, make
6 sure that Revision 6011 has been withdrawn. Is
7 that correct, Mr. Heuchan, 6011 has been
8 withdrawn?

9 COMMISSIONER HEUCHAN: Yes, sir --

10 CHAIRMAN BERUFF: If the sponsor would
11 indicate that, it would be wonderful.

12 COMMISSIONER HEUCHAN: The sponsor -- the
13 sponsor of the individual proposal has
14 indicated that's his desire, and as the sponsor
15 with my Style and Drafting teammates, we will
16 acquiesce to that. So, yes, you can show
17 Proposal 6011 withdrawn.

18 CHAIRMAN BERUFF: Withdrawn. Thank you
19 very much.

20 We move on to the last proposal, folks. I
21 bet you didn't think you'd be saying that
22 tonight, huh? 6009. Mr. Heuchan, would you
23 please introduce 6009? Thank you.

24 COMMISSIONER HEUCHAN: Yes, sir.

25 Revision No. 9, PCP 6009, is the exclusive

1 substance to Proposal 11 by Commissioner
2 Plymale. The ballot title reads simply,
3 "Primary Elections."

4 As I mentioned before, there was a number
5 of these proposals that initially was sent to
6 Style and Drafting under a certain vote count.
7 There should be, like I mentioned, no stigma
8 attached to those. We just decided that for
9 the reasons that President Lee and others
10 mentioned, to leave those by themselves, and
11 this one is in that boat. There were no
12 amendments to Proposal 11, and that is the
13 explanation.

14 CHAIRMAN BERUFF: Questions?

15 COMMISSIONER HEUCHAN: There is --

16 CHAIRMAN BERUFF: There's an amendment, I
17 will recognize them. Doing questions now on
18 6009 before we move on to the amendment. 6009,
19 questions on 6009? Would you like to -- you
20 can -- absolutely.

21 Would Commissioner Plymale make comments
22 on 6009, opening comments? Thank you.

23 COMMISSIONER PLYMALE: Thank you.

24 First I'd like to thank my co-sponsors --

25 CHAIRMAN BERUFF: Commissioner Plymale,

1 would you pick up that microphone?

2 COMMISSIONER PLYMALE: Yes, that would be
3 a great idea.

4 CHAIRMAN BERUFF: Thank you.

5 COMMISSIONER PLYMALE: Like everybody
6 else, it's getting late.

7 CHAIRMAN BERUFF: We want everybody to
8 hear you.

9 COMMISSIONER PLYMALE: First I'd like to
10 thank my co-sponsors to the original amendment:
11 Commissioners Martinez, Coxe, Timmann, and
12 Schifino.

13 This revision is about respecting the will
14 of the voters and protecting the integrity of
15 the CRC. Twenty years, the CRC and 64 percent
16 of Floridians gave every voter a constitutional
17 right to vote in the primaries when all
18 candidates in an election come from the same
19 political party.

20 But this constitutional right was undone,
21 not by voters, not even the Legislature, but,
22 rather, by political consultants and their
23 candidates who invented a loophole that was
24 never even considered 20 years ago at the CRC.

25 The problem that we need to correct is

1 that these write-ins never appear on a ballot.
2 They never file a financial disclosure. They
3 don't pay a filing fee or submit petitions.
4 And they do not campaign or seek votes. The
5 write-ins used in this manner make a mockery of
6 our process.

7 Write-ins were not contemplated in 1998
8 because write-ins were a secondary avenue for
9 those who could not afford any other route to
10 candidacy.

11 This loophole is an assault on our
12 election process, and the effects of it are a
13 lack of trust in the election processes and,
14 therefore, our government. And it requires a
15 fix in the Constitution. Thank you.

16 CHAIRMAN BERUFF: We will now open 600- --
17 no, we actually move on to -- is there any
18 further questions on 6009? Questions on 6009
19 before we move to the amendment? Questions?

20 I don't see any questions on 6009. So we
21 will ask Commissioner Coxe to please introduce
22 your amendment. Thank you.

23 COMMISSIONER COXE: Thank you, Mr. Chair.
24 It is Bar Code 902498.

25 Very simply, I don't know how many

1 Commissioners have before them the original
2 ballot statement that was provided out of Style
3 and Drafting, and it was two long sentences,
4 and certainly that statement was approved by
5 Style and Drafting and by outside counsel.

6 The amendment changes the ballot
7 statement. It doesn't obviously change the
8 substance of the proposal. And it goes to a
9 very simple statement as to what this proposal
10 is about. And it says, "The amendment provides
11 that all voters, regardless of party
12 affiliation, may vote in a partisan primary
13 election if winner of the primary election will
14 face no opposition or only opposition from a
15 write-in candidate" -- parenthesis S in case
16 it's plural -- "in the general election."

17 That was approved by staff, it was
18 approved by outside counsel, and so everyone
19 has signed off on this particular language.
20 And it is actually just much simpler than what
21 was originally proposed. The two long
22 sentences were one of history of what the
23 original language in the Constitution was
24 about, and then the second long sentence was a
25 discussion of what the amendment is.

1 All this does -- all this amendment does
2 is make it much simpler to understand.

3 CHAIRMAN BERUFF: Questions on Amendment
4 902498?

5 Commissioner Martinez.

6 COMMISSIONER MARTINEZ: Thank you, Chair.

7 Commissioner Coxe and Commissioner
8 Heuchan, was the language approved by our legal
9 experts? It was?

10 COMMISSIONER COXE: Yes. By Mr. Richard.

11 CHAIRMAN BERUFF: Further questions on
12 902498? 902498? Any more questions?

13 Commissioner Coxe, would you like to close
14 on your amendment?

15 COMMISSIONER COXE: I'll waive that --

16 CHAIRMAN BERUFF: Excuse me, there's
17 debate. I apologize. Debate, any debate on
18 902498?

19 Commissioner Plymale has debate.

20 COMMISSIONER PLYMALE: I don't really want
21 to debate Commissioner Coxe because he's really
22 too good. I just want everybody to know that
23 this is a very friendly amendment. The
24 original ballot language got all confused and
25 it was actually almost longer than the

1 proposal. So this really did shorten it and
2 clarify it for the voters.

3 CHAIRMAN BERUFF: Further debate on
4 902498? Further debate on 902498?

5 Okay. So we are going to vote. All those
6 in support, signify by saying yea.

7 (Chorus of yea's.)

8 CHAIRMAN BERUFF: All those against,
9 signify by saying nay.

10 CHAIRMAN BERUFF: That's pretty clear.

11 Now we are going to go back to debate on
12 6009, Revision 9, 6009.

13 Commissioner Coxe is recognized on debate.

14 COMMISSIONER COXE: Thank you, Mr. Chair.

15 Very briefly, as Commissioner Plymale
16 mentioned, 20 years ago this was passed by
17 mid-60 percent range of the voters in Florida,
18 and this -- the problem that developed was not
19 anticipated by anybody.

20 Then when it came up, I want to say maybe
21 12 -- 10 years ago or so, there was an opinion
22 issued by the Secretary of State's Office that
23 the District Court of Appeal upheld that said a
24 write-in could constitute a basis for closing
25 the primary.

1 In 2016, there were two major primaries in
2 Jacksonville alone that I had experience in
3 where it caught the voters flat-footed that the
4 candidate could engineer a write-in to close
5 the primary for the benefit of the candidate.
6 I'll be the first one to acknowledge that it
7 depends on whose ox is being gored in the State
8 of Florida, no matter where it's taking place.

9 Sometimes the Republican parties benefited
10 from it, sometimes the Democratic party
11 benefited from it. In Jacksonville, it was the
12 Republican party, but I understand in Southeast
13 Florida, could have just as easily been the
14 Democratic party.

15 But as Commissioner Plymale points out,
16 that's not what was intended by that many
17 voters in the state of Florida 20 years ago
18 when they approved this provision.

19 So all it does -- all it does -- all this
20 does is correct something that should never
21 have happened in the first place and just keeps
22 things fair. That's what we want, just to keep
23 these primaries fair.

24 CHAIRMAN BERUFF: Commissioner
25 Thurlow-Lippisch.

1 COMMISSIONER THURLOW-LIPPISCH: Thank you.

2 I know there are many varied feelings on
3 this issue, and some of you may have heard me
4 testify, I believe, before the Ethics Committee
5 early on during our CRC process. And I've
6 tried to be quiet about this because I
7 really -- it is the most unattractive thing is
8 a person who is doing something because they,
9 themselves, have a chip on their shoulder about
10 something.

11 But I cannot stand here and say nothing
12 when I have watched how hard Commissioner
13 Plymale has worked for this.

14 And I can just say to everyone here that
15 we all know there are ways of doing things that
16 the public respects, and there are ways of
17 doing things that the public does not respect,
18 and we -- when we do things in such a way that
19 the public does not respect, we shoot ourselves
20 in the foot. And then one day, we can't walk,
21 and then one day, we can't get up. And that is
22 what is going to happen if we don't start
23 changing this.

24 There is nothing wrong with closed
25 primaries, nothing wrong with closed primaries.

1 If that's what we want, then that's what we
2 should say we want. But to have the farce of a
3 write-in candidate that can be somebody's
4 mother or somebody's brother or somebody's
5 father or a high school student is absolutely
6 ludicrous and it is a bad reflection on all of
7 us.

8 We need to make a good reflection on all
9 of us, and if we want something, let's do it.
10 I'll help. Thank you.

11 CHAIRMAN BERUFF: Commissioner Carlton.

12 COMMISSIONER CARLTON: Thank you, Mr.
13 Chairman, to speak in favor of the proposal.

14 So in 1998, the CRC Commission put forward
15 Proposition 11 on the ballot. Proposition 11
16 was sponsored by Barbara Ford-Coates, who was
17 my Tax Collector in Sarasota County. So I have
18 been speaking with Barbara about that
19 experience in the '98 CRC and about her
20 sponsorship of that proposal.

21 Proposition 11 was put on the ballot and
22 it was grouped like all the other proposals
23 were in 1998. It was grouped together with a
24 bunch of other issues. And as we all know, it
25 would have opened Florida's primaries in the

1 very limited situation when there was no
2 general election.

3 Despite the fact that 20 years ago when
4 the threshold was only a majority, this
5 proposal passed by 64.1 percent of Floridians
6 at the time.

7 The intent of the '98 Commission is so
8 very clear. Not a single member from the '98
9 Commission that served has said that it was any
10 different than to open the primaries when there
11 was no general election. The intent was clear.
12 Not a single member of the '98 Commission has
13 disputed the intent.

14 The media sources that have reported on
15 this have widely reported the original intent.
16 And if you go and look at the court records
17 that Commissioner Coxe talked about, if you go
18 and look at the various court records that have
19 sort of come about is because -- because of
20 this proposal, it's been in several different
21 levels of courts, even if you go through the
22 judicial process, the Judges have referenced
23 the original intent. So that is very, very
24 clear, the original intent is. It is
25 undisputed.

1 However, there are 11 words missing from
2 the proposition, and those are the 11 words
3 that are in the proposal today. Those words
4 were missing from the proposition of 20 years
5 ago.

6 So what's happened over the last 20 years?
7 Well, here's what's happened over the last 20
8 years: We have created paper candidates that
9 emerge from the shadows and sign a piece of
10 paper, they become write-in candidates, but not
11 because they want to be public servants. They
12 become write-in candidates so that they can
13 close the primaries.

14 In Vero, I think I read that -- and it's
15 been referenced here, I think it was in Vero, a
16 write-in candidate filed even though that
17 person lived in Clearwater.

18 In 2016, 34 people filed as a write-in
19 legislative candidate. 14 House seats and
20 about six Senate seats involved, I think.

21 Those write-in candidates shut out full
22 voter participation, disenfranchising about 1.6
23 million voters. The write-in candidates do not
24 abide by the same rules as all the rest of the
25 candidates that put their name on the ballot.

1 They don't have to pay filing fees, they don't
2 collect petitions, they don't -- they don't
3 file treasurer's reports. Half the ti- -- they
4 don't show up to forums, they don't answer
5 questions from the public. The media reports
6 that they try to call them, they can't get
7 ahold of them, they don't answer questions.
8 This is a sham, and it is a bad one.

9 You know, this CRC process only occurs
10 every 20 years, and 20 years ago, Commissioners
11 sat in these -- in this chamber and passed a
12 proposal that they intended to operate for the
13 good of Floridians. It was a proposal that
14 would have sealed our elections with more
15 transparency, would have encouraged more voter
16 participation, yet it held true to some party
17 politics.

18 But when that amendment was passed by
19 64 percent of the majority of Floridians, the
20 intent was thwarted for the last 20 years. You
21 know, if you look at what happened in the last
22 election cycle -- and I tried to research this
23 and I tried to find out, you know, what's
24 happened in -- in situations across the state
25 where there are closed primaries, or where

1 there are open primaries? You know, what's
2 gone on? Has like the world come to an end? I
3 mean, like what's going on?

4 So you had five Democratic House primaries
5 stretching all over the state from Tampa,
6 Broward, Miami-Dade, and there was no write-in
7 candidate, and, therefore, in those elections,
8 Republicans were allowed to vote in a Democrat
9 primary. And the world did not come to an end.

10 So you say, okay, so what happens if we
11 pass this proposal? If we adopt this proposal,
12 what happens? Well -- and then the voters
13 approve it, obviously. If a party still wants
14 to pay -- and when I say "party," I mean
15 Republicans and Democrats, because everybody
16 knows there's-- there's-- there's enough --
17 there's enough of this stuff to go around.

18 If a party still wants to close a primary,
19 guess what? You still can. You can still
20 close a primary and play party politics all you
21 want. All you've got to do is find a candidate
22 from one of the minor parties who will file to
23 run for office, who will put their name and
24 their signature on a form that says "I am going
25 to abide by the state election laws, I am going

1 to file campaign reports, I am going to file
2 the filing fee, I actually" -- imagine this --
3 "want to be a public servant," because I kind
4 of thought that was why you put your name on
5 the ballot, because you wanted to be a public
6 servant, not because you wanted to participate
7 in shams.

8 So if -- if we pass this, that's what
9 happens. So for the party politics, for the
10 Commissioners and the people that are concerned
11 about party politics, it is still going to
12 continue, and as Commissioner Lee said earlier,
13 we cannot let the perfect be the enemy of the
14 good.

15 So are we -- by voting for this, are we
16 going to have perfect elections? Of course
17 not. We all know things are still going to
18 happen. People are going to be able to find
19 members of minor parties and have them close
20 the primary. But you know what? It moves it
21 out of the shadows and into the light of day so
22 that everybody knows what's going on, and it
23 legitimizes our elections. It provides
24 transparency and it provides voter
25 participation.

1 Now, what happens to the write-ins? Well,
2 they can continue to be write-ins. We are not
3 doing anything to say you cannot be a write-in
4 candidate. You can still be a write-in
5 candidate. But you are not going to be able to
6 close the primary just by virtue of the fact
7 that you are a write-in candidate. But if you
8 want to be a write-in candidate, your rights
9 are still -- are still there, you can be a
10 write-in candidate.

11 So -- and I am going to close,
12 Mr. Chairman, because I know time is running
13 out, but, you know, there is a red and a green
14 button, and we said it earlier for a reason.
15 So on this last proposal, you get to choose
16 your color.

17 If 22 of us press the green button, the
18 2018 CRC will have done its part to improve the
19 integrity and transparency of Florida's
20 election process.

21 Thank you, Mr. Chairman.

22 CHAIRMAN BERUFF: Further debate?

23 Commissioner Solari is recognized on 6009.

24 COMMISSIONER SOLARI: Thank you very much,
25 Mr. Chairman.

1 As unusual as this is for me, I rise in
2 support of this proposal. And there are some
3 other -- there are some other no-sayers, and I
4 want to shout out to you. Commissioner Joyner,
5 it is already too late for you to have the
6 honor of having the most no votes. You've lost
7 to me. So feel free to vote for this.

8 Commissioner Lester, where did he go? Ah,
9 good. Listen, I'm at least as conservative as
10 you, so I want you to know that you can feel
11 comfortable voting for this.

12 Commissioner Stemberger, I have read your
13 four-point test, and not only do I believe that
14 this follows that test, but just two lines from
15 what you wrote: "We are a representative
16 democracy that operates within a constitutional
17 republic form of government. We vote for and
18 elect legislators who represent us by voting on
19 Bills which become law on our behalf."

20 Our State Constitution is the document
21 that gives Florida a republican form of
22 government. And if we can't believe that those
23 people who we have elected have been elected
24 honestly, then we've already lost the race.

25 I came to the CRC believing that the

1 greatest threat to American democracy was the
2 administrative state, and I hope that we might
3 address the problem, and we have, and I'm
4 grateful for that and I thank Commissioner
5 Martinez for that.

6 But during the last few months, I have
7 come to believe that there's one thing more
8 important, more fundamental, and that is trying
9 to restore the people's trust in our
10 government. If the level of trust that the
11 people have in their government does not
12 improve, the very reason for our type of
13 government will crumble.

14 A few research notes that from 1964 to
15 2016, trust in our government at the federal
16 level has dropped from nearly 80 percent to
17 18 percent. Gallup polls show a similar, if
18 not as disturbing a trend. State government in
19 Florida does better, but only about 50 percent
20 of Floridians like their state government. And
21 I -- I can't but help myself sometimes, and I
22 will note to all the Florida legislators, that
23 two-thirds of the people in the state of
24 Florida actually like their local government.

25 But if we're going to do something really

1 serious about trying to do something good for
2 the people of Florida, we should do what we can
3 to restore Floridians' trust in their
4 government.

5 There are many reasons for people's lack
6 of trust in their government, but they center
7 around various types of corruption, which all
8 too readily seem to pop up. An important
9 center of the corruption centers around
10 primaries.

11 At the very first series of public
12 hearings, fixing the Florida primary system was
13 one of the top five issues that Floridians
14 wanted addressed.

15 One piece of the primary problem is the
16 write-in loophole. Around election time, the
17 corruption of the write-in loophole keeps on
18 popping up. The people of Florida understand
19 this, and they understand that this is an abuse
20 of the system, and as they see it, continue
21 election after election, it undermines their
22 trust in the election process. And in a
23 two-party system, which many people see as
24 controlling -- as controlling and corrupting
25 the very core of our democratic process, the

1 election of the people's representatives. The
2 disillusion of Florida voters is great and
3 growing, as shown by the number of Floridians
4 who have abandoned the two-party system and are
5 now registered with no party affiliation.

6 Statistics from our Supervisor of
7 Election's office underscore the problem. In
8 Indian River County in 1968, three percent of
9 those registered to vote in Indian River County
10 were not affiliated with either party. That
11 percentage has grown over the last five decades
12 to 27 percent. There are now no -- more
13 no-party affiliations in Indian River County
14 than there are registered Democrats.

15 In Miami-Dade, there are more no-party
16 affiliations in Miami-Dade than there are
17 Republicans registered.

18 At the public hearings, many Floridians
19 let us know that they feel disenfranchised.
20 This is certainly part of the reason why voter
21 turn-out in Florida is so abysmal and getting
22 worse over time.

23 Many Floridians let us know that they did
24 not trust their government. Many Floridians
25 have called out to us to repair what they see

1 as a broken and corrupt system.

2 We should answer the call. We should take
3 a small step today and recognize that moving
4 Commissioner Plymale's proposal, while a small
5 step, is a step in the right direction. It is
6 an important first step, which will be
7 recognized and appreciated by the people of
8 Florida.

9 I would ask you to join me today in
10 supporting Commissioner Plymale's motion, and I
11 feel it is very appropriate that this is the
12 last proposal that we will be voting on, and it
13 is a proposal which will help restore the
14 people's trust in their government.

15 Thank you, Mr. Chair.

16 CHAIRMAN BERUFF: 009. Commissioner Grady
17 is recognized.

18 COMMISSIONER GRADY: Thank you,
19 Mr. Chairman.

20 I don't see the loophole and I don't see
21 the need for a constitutional fix here. We've
22 heard that there may be problems with certain
23 write-in candidates. We've heard that they may
24 be sham candidates. Well, the Legislature sets
25 the laws as to who qualifies to run as a

1 candidate, including whether you run as a
2 write-in candidate or whether you run as a
3 party affiliate. The Legislature can fix that.

4 I also don't see the loophole because we
5 also heard from other speakers that if it is a
6 loophole, it can still be closed. I think my
7 notes say something like someone can find a
8 party candidate rather than a write-in
9 candidate.

10 Well, the difference between a write-in
11 candidate and a party candidate is that a
12 write-in candidate doesn't require money,
13 unless the Legislature changes that, and a
14 party candidate does, going through the
15 traditional process of paying a fee. So I
16 guess what that means is if we eliminate the
17 ability of a write-in candidate to write in
18 because it upsets some people because it closes
19 the primary, and that write-in candidate has no
20 money, the write-in candidate has money, then I
21 guess the write-in candidate can become a party
22 candidate and be a no-party affiliate party
23 candidate or a green party candidate or a
24 somebody party candidate. It doesn't seem to
25 be a problem that warrants our constitutional

1 attention.

2 It also seems to me that when we talk
3 about this in the big picture as a loophole, it
4 flies in the face of 242 years of history in
5 this country, which we learned earlier today,
6 thanks to Commissioner Gaetz' proposal, which
7 27 of us supported in favor of civic literacy,
8 242 years of history in this country tells us
9 that our party system, as bad as it is, as
10 broken down as it may have become in recent
11 years, it's still the best on the planet. And
12 parties matter. Parties aren't irrelevant.

13 They are becoming less familiar to us
14 primarily because of the internet, primarily
15 because of the democracy that the internet
16 brings to everything, including politics, but
17 we still live in -- we learned from the
18 amendment to the proposal to Commissioner
19 Gaetz' proposal earlier today, we live in a
20 constitutional republic, not in a
21 constitutional democracy. And our
22 constitutional republic has survived and has
23 thrived and has prospered because we have
24 parties.

25 Parties have infrastructure, parties have

1 money, parties have mechanisms to recruit,
2 train, and put candidates up for office. Those
3 candidates appear, they present, they run in a
4 primary.

5 If we are in a county or in a race where
6 there is only a Democrat and no Republicans,
7 shame on the Republican party. Put up a
8 candidate. Find a candidate. Recruit a
9 candidate. Yes, it takes time. Yes, it takes
10 money. But that is a fix. It doesn't require
11 a Constitutional Amendment in order to do that,
12 especially when we've heard that somebody could
13 do that on a sham basis if they chose to, if
14 they had the money, and if that's really what
15 the objective was.

16 I'm not convinced that there are no
17 legitimate write-in candidates who want to run
18 in races throughout the State of Florida, nor
19 am I convinced that we should discourage them
20 from doing so. But if there's a problem with a
21 write-in candidate, if there's a problem with
22 the qualifications currently in statute, fix
23 it.

24 There are a lot of members of the
25 Legislature in here. That's probably not

1 terribly controversial. If that's the problem,
2 fix that problem. That doesn't rise to the
3 level of requiring a further constitutional fix
4 by this Commission.

5 So for those reasons, Members, I would
6 support, I would urge you to not support this
7 proposal and vote no.

8 Thank you, Mr. Chairman.

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

11 COMMISSIONER GAETZ: Thank you very much.

12 It is -- it is rare that I would disagree
13 with Representative Grady. I have to on this
14 case.

15 I -- I would have been happy to have
16 Commissioner Plymale's proposal joined with the
17 ethics proposal we passed earlier, and she
18 knows that. She chose, for reasons that are
19 very good, I'm sure, to stand on her own, and I
20 can understand not wanting to be directly
21 related to me. I get that.

22 This proposal has nothing to do with an
23 attack on political parties. I am a fiercely
24 partisan Republican and have been ever since my
25 father pinned an "I like Ike" button on me and

1 told me to go next door and, you know, say bad
2 things to the lady who was madly for Adlai.

3 So -- and I don't have any problem with
4 partisan elections. I've been a candidate in
5 seven of them. I've been opposed by Democrats,
6 by Republicans, by NPAs. Never had to close
7 the primary with a pri- -- with a loophole
8 because Senator Smith always made sure that I
9 had an opponent. Gaetzmeier, I think is the
10 name I saw last time.

11 I think the question is, though, you know,
12 is this a constitutional issue? We all paid
13 attention to Senator Carlton. I think she laid
14 out the reasons why this is a constitutional
15 issue because of the language that was placed
16 in the Constitution 20 years ago that has been
17 perverted now by political parties, Republicans
18 and Democrats.

19 And I agree if you can't find a, you know,
20 a Democrat to run, shame on you, if you can't
21 find a Republican to run, shame on you, but you
22 should not be able to manipulate the election
23 process without having a real candidate who
24 really files a financial statement. You don't
25 need a lot of money to be a candidate.

1 You can get petitions signed. You don't
2 need to have \$10,000 to run. You can do it on
3 a shoe string, and some candidates have and
4 been elected.

5 Here is the question I guess I would ask
6 as the hour wanes. We wonder sort of when you
7 go back home after being part of an assembly
8 like this or, you know, being on the School
9 Board, Commissioner Donalds, or being in the
10 Legislature, how would you explain your vote at
11 the Rotary Club? How would you explain your
12 vote at the Democratic Executive Committee or
13 the Republican Executive Committee or the
14 League of Women Voters or the Lutheran women?

15 How would you explain your vote if
16 somebody said, "Why did you vote against
17 closing the primary loophole? Why did you vote
18 to allow somebody's mother-in-law or best
19 friend or somebody who got paid \$50 to go close
20 an election and disenfranchise a million
21 voters? Why would you do that?" And if you
22 can come up with a good answer, then you should
23 probably vote against this.

24 I can't come up with a good answer, and as
25 a fiercely partisan Republican who believes

1 that Republicans ought to -- ought to advance
2 candidates in every election that we can, I
3 believe that we ought to close the primary
4 loophole and we ought to advance candidates as
5 Republicans and Democrats, but not trying to
6 win the elections by manipulating the system in
7 a fashion that is extra constitutional, and I
8 would argue based on Senator Carlton's
9 explanation, unconstitutional.

10 So I would support Commissioner Plymale's
11 amendment and hope you will as well.

12 CHAIRMAN BERUFF: Commissioner Joyner is
13 recognized on debate.

14 COMMISSIONER JOYNER: Thank you,
15 Mr. Chair.

16 I think I would be remiss if I did not get
17 up and explain debate and opposition that I did
18 in committee since Sunday's paper said that I
19 was a target because I opposed this amendment.
20 And I simply said in committee that I looked at
21 the history of primaries and I found out that
22 they were created for the purpose of political
23 parties to select candidates that best had the
24 values and the ideologies of the respective
25 parties so that they could come up with a

1 candidate that best exemplified their values in
2 the general election. And that's why I am
3 opposed to this.

4 As Senator Carlton said -- and I'm sure it
5 will be done -- and as Commissioner Grady's
6 representative said, that I am sure that
7 someone will pay the filing fee and close it
8 that way. It's going to be done. We are still
9 looking for utopia here, but I am not concerned
10 about what they do.

11 I am concerned that the person that
12 represents this fiercely Democratic partisan
13 person is one that best exemplifies my values
14 and the values of the party, and to allow
15 someone who is not a member of that party to
16 come in and select the person to represent me
17 is something that is abhorrent to me, because
18 when they come up here or go to Washington or
19 wherever, I want that person to speak in my
20 best interest and that of the constituents in
21 the districts which they represent.

22 Consequently, I am not supporting today's
23 amendment, and we are each here to do what we
24 feel is best and I've never been shy about
25 stating my position. And I thank Senator Gaetz

1 that I can defend every vote that I've ever
2 taken in this Legislature and the ones that
3 I've taken here.

4 And the bottom line is, if I am running
5 and the people don't like it, then they don't
6 have to elect me. And each time that I had --
7 I was confronted with votes that I took when I
8 was in the Senate, I was able to defend them to
9 the satisfaction of the 500 and some thousand
10 persons in the district. So I am not afraid to
11 stand up and say what I feel.

12 And I know it is well-taken by
13 Commissioner Plymale and we have gotten to be
14 really good friends and I have enjoyed this
15 experience immensely, but I am not ready to
16 step back and not state my position,
17 irrespective of whether or not others like it.

18 It is Joyner's prerogative. And I really
19 think that when I want a representative, I want
20 somebody that I know that I can trust, who has
21 character -- who has character and integrity,
22 who will stand up and speak truth to power in
23 accordance with the values and ideologies of
24 the Democratic party. And for that, I am not
25 supporting you today, Commissioner, but I will

1 be here when you need me otherwise.

2 CHAIRMAN BERUFF: Commissioner Stemberger
3 is recognized on debate.

4 COMMISSIONER STEMBERGER: I couldn't agree
5 with Senator Joyner more, except for using the
6 word "Republican" at the end instead of
7 "Democrat."

8 There are some very legitimate arguments
9 that have been made, but there's one argument
10 that I did want to address, and that is use of
11 the word "disenfranchise."

12 No one is disenfranchised. When you
13 choose no party affiliation, guess what? It is
14 not a party affiliation. And if that is your
15 choice, then that's your choice. And so it is
16 not like -- these are not Independents, because
17 there's an Independent party. They can choose
18 that. There is the bull moose party. There's
19 all kinds of parties.

20 But in our system, we have Democrats or
21 Republicans as two primary parties, and then
22 you can do non-party affiliation but that's
23 what it means. There's no party, and I agree,
24 Republicans should pick Republicans, Democrats
25 should pick Democrats, and, frankly, the net

1 effect of this will be more moderates, squishy
2 people on both sides, which I don't think
3 either one of us want.

4 You like the politics of former Governor
5 Charlie Crist, that's what you will get more of
6 in the Legislature, bottom line, bottom line.
7 So that's why I oppose this.

8 CHAIRMAN BERUFF: Further debate?

9 Commissioner Cerio is recognized on
10 debate, 6009.

11 COMMISSIONER CERIO: Thank you, Mr. Chair.

12 I know the evening is getting late, and I
13 would like to echo the comments and sentiments
14 of Commissioner Joyner and Commissioner
15 Stemberger and Commissioner Grady, and I will
16 just make this one point.

17 There's been a lot of discussion about
18 what the CRC did 20 years ago, and I know that
19 there's passionate feelings and different
20 opinions of what happened, but the process of
21 what was put on the ballot at then and -- or,
22 sorry, what was put on the ballot 20 years ago
23 and how it's been implemented, it is currently
24 called a sham or thwarting the interest of the
25 voters or a perversion.

1 I would say this, that the CRC 20 years
2 ago, there were some pretty smart people on
3 that CRC. And 20 years ago, we also may not
4 have been as common, but we had write-in
5 candidates. It was possible to be a write-in
6 candidate. And the specific language that the
7 CRC proposed and was passed by the voters say
8 if all candidates for office have the same
9 party affiliation and the winner will have no
10 opposition -- no opposition in the general
11 election, then all qualified electors,
12 regardless of party affiliation, may vote in
13 the primary election for that office.

14 That was clear. It was -- the intent of
15 the voters was carried out. I've heard that
16 the -- how the Division of Elections
17 interpreted that. It was called some -- it was
18 referenced as some type of -- well, in private
19 conversations -- an abomination. Well, the
20 District Court of Appeal upheld that
21 interpretation.

22 The plain language of the statute was
23 implemented, it was carried out, and I just
24 think we need to remember that when we are
25 trying to recharacterize what was done 20

1 years -- what has -- how what was passed 20
2 years ago has been implemented as some type of
3 thwarting of the intent. The intent is pretty
4 clear. And, again, we had write-in candidates
5 20 years ago. I would urge you to oppose
6 this -- this revision.

7 Thank you.

8 CHAIRMAN BERUFF: Commissioner Schifino.

9 COMMISSIONER SCHIFINO: Very briefly, and
10 I get to say this. I -- really it is on my
11 bubble. I wasn't going to speak, but -- yeah
12 right. And that is in my bubble. And I wasn't
13 going to speak, but -- yeah, right.

14 And with that last comment, I really must
15 say no opposition. And so what we're saying,
16 then, to follow that logic is that a sham
17 write-in candidate creates opposition. I
18 frankly think that flies in the place of logic.
19 That wasn't the intent.

20 The intent one -- is clear if there's no
21 opposition -- and that has to be construed as
22 legitimate opposition, not Cousin Joey who I
23 give 25 bucks and say to write his name down.

24 So if you are going to vote no on this,
25 you may want to follow Commissioner Grady's

1 logic and that analysis. I don't agree with
2 him, but what I clearly disagree with is an
3 assumption that the intent of the '98
4 Commission was actually followed. Don't say
5 Cousin Joey constitutes legitimate opposition.

6 CHAIRMAN BERUFF: Commissioner Coxe, you
7 are recognized.

8 COMMISSIONER COXE: Two observations.
9 First, with respect to Commissioner Stemberger,
10 we're not talking about no party affiliates.
11 We're talking about Republicans, Democrats,
12 voting together in the same primary because
13 there's no general election opposition. That's
14 all we are talking about.

15 And I go back to what Commissioner Carlton
16 said. Nobody is claiming that this reversion
17 to what the voters intended 20 years ago makes
18 the system perfect. Nobody is contending that.
19 But six- -- almost 65 percent of the citizens
20 of this state said this is what we wanted when
21 they passed it.

22 And to Commissioner Grady, I'm sorry you
23 weren't there at the beginning of this process
24 when the Ethics and Elections Committee met and
25 we heard from all those Supervisors of

1 Elections in Florida who came before us and
2 said the single biggest complaint that they
3 have to fend off at the polls every election is
4 that people were gaming the primary system
5 and they were -- they felt they were cheated
6 out of being able to vote because there was no
7 general election that was going to take place,
8 and they relied on the fact that the
9 Constitution said they would get to vote, and
10 then they couldn't because somebody came in
11 without paying a fee at the direction of one of
12 the candidates and became a write-in, and the
13 system was destroyed, or destroyed as it was
14 intended to be 20 years ago. That's all we are
15 talking about. It is gaming the system.

16 And so if you go back to Commissioner
17 Gaetz and you go back to Commissioner Carlton,
18 do we owe it to the people of the state of
19 Florida to restore to what we had 20 years ago
20 and do what we intended to make our elections
21 fair? It is just that simple. And we do owe
22 it to the people of this state to make our
23 elections fair. Voting is the greatest
24 strength this nation has to offer the rest of
25 the world.

1 CHAIRMAN BERUFF: Commissioner

2 Thurlow-Lippisch is recognized on debate.

3 COMMISSIONER THURLOW-LIPPISCH: Thank you.

4 There was a point where I researched
5 write-in candidates, and it really changed my
6 heart when I learned that the reason there were
7 write-in candidates is because some people
8 couldn't afford to be a candidate and/or other
9 reasons that they couldn't be candidates.

10 So that's why it was there, and it was
11 actually a very old thing, you know, it wasn't
12 like something recent. It was something that
13 goes back in our history quite a while, I
14 believe. And I thought that's really great. I
15 really respect that for minorities especially
16 and women changing in our society. That is
17 fine.

18 And, also, I want to say again, closed
19 primaries are fine. Closed primaries are fine.
20 What is not fine is to lie. What is not fine
21 is to be misleading. And it -- a write-in
22 candidate -- if a write-in candidate isn't a
23 write-in candidate, they shouldn't be allowed
24 to be a write-in candidate. They should be I'm
25 a fake candidate. So we need to have something

1 that says I'm a fake candidate. I am the
2 mother of that person, I am the brother of that
3 person, I am a high School student, I am nobody
4 who really cares who runs, I am a fake
5 candidate.

6 And that's why we must support what
7 Commissioner Plymale is doing here today and
8 then we have to work out the rest.

9 Thank you.

10 CHAIRMAN BERUFF: Commissioner
11 Kruppenbacher.

12 COMMISSIONER KRUPPENBACHER: Call the
13 question.

14 CHAIRMAN BERUFF: Further debate?

15 Commissioner Heuchan -- Commissioner
16 Heuchan, would you like to have Commissioner
17 Plymale close for you?

18 COMMISSIONER HEUCHAN: Of course.

19 CHAIRMAN BERUFF: I am just trying to
20 follow the rules here.

21 COMMISSIONER PLYMALE: I'm going to
22 pretend I'm Commissioner Newsome, except I have
23 to have a paper.

24 I just want you to think about the
25 unfairness of this loophole. How will you

1 react when this happens to your Constitutional
2 Amendment? For example, I support Marsy's Law.
3 But what will you do if Marsy's Law is later
4 undone by a hostile bureaucrat, an attorney, or
5 a Judge who invents a loophole that says it
6 doesn't apply to alleged victims, it only
7 applies to victims who prevail in an
8 evidentiary hearing, or maybe not until a
9 defendant is proven guilty at trial? If
10 Marsy's Law or any other CRC proposal is later
11 negated by some loophole that none of us even
12 ever envisioned, we want and expect a future
13 CRC to restore the will of this CRC and the
14 voters if our amendments pass.

15 All I am asking you is that you give the
16 same respect to the voters and the CRC from 20
17 years ago when it comes to this proposal as you
18 expect for yours.

19 If you are voting against this proposal
20 because you don't like what the voters put in
21 the Constitution 20 years ago, the way to
22 repeal it is through another Constitutional
23 Amendment, not through a sneaky loophole on
24 sham candidates and deceit.

25 You shouldn't let that happen to Marsy's

1 Law and you shouldn't let it happen here. The
2 lack of trust leads to fewer and fewer highly
3 qualified citizens involving themselves in our
4 process.

5 This loophole gives undue influence to
6 party bosses, political consultants, and the
7 most partisan politics, not to the voters as it
8 should be. The voters should get to choose
9 their government and their leaders.

10 Please restore the integrity of the
11 Article VI, Section 8, of our Constitution and
12 send this to the ballot. Thank you.

13 CHAIRMAN BERUFF: Okay. So open up the
14 board and vote.

15 Close the board and announce the tally.

16 THE SECRETARY: Nineteen yea's, 17 nay's,
17 Mr. Chair.

18 CHAIRMAN BERUFF: The revision did not
19 receive the necessary 22 votes, so the revision
20 failed.

21 Okay. I would like to take a moment.
22 What an incredible job everyone has done. It
23 has been my distinct pleasure to serve with you
24 folks, and I have met some tremendously
25 talented people and I have a tremendous amount

1 of respect for the process of government that I
2 didn't quite understand before I took on this
3 venture.

4 I want to thank the staff because the
5 staff has made this seamless for all of you. I
6 can tell you that I've never gone to a meeting
7 where everything wasn't on top of its game,
8 organized to perfection where I walked through,
9 didn't know where I was going, but they just
10 kept me in my channel, they kept me in my lane.

11 Without them, this process would not have
12 occurred as seamless as it has been, and I
13 cannot thank them enough. I really can't.
14 Thank you. Thank you, Faye.

15 But there is a whole group of people back
16 here that -- that don't share the podium up
17 here with them, and I think you all know them
18 and acknowledge them. So appreciate that.

19 I also would like to start getting some
20 housekeeping items before I go to the more
21 formal closing process that Commissioner Cerio
22 will help us with, because once we close, then
23 you guys are going to get out of here, so I got
24 to keep you here.

25 Housekeeping items. You know those

1 little -- somebody wants to take the names with
2 them. Don't take them. You got to leave them
3 here. We will mail you your plate, so rest
4 assured you will get them in the mail. I was
5 told I had to do that. So --

6 I would like to acknowledge Commissioner
7 Heuchan. He would like to say a few words
8 about what -- all of the good things that were
9 done behind the scenes as he got through
10 rules -- excuse me, Style and Drafting.

11 COMMISSIONER HEUCHAN: Yes, sir. Thank
12 you, Mr. Chairman.

13 I don't even know where to start on the
14 level of gratitude and thanks that I have for
15 everybody that was on this committee and the
16 confidence and trust that the rest of you gave
17 to us. It was daunting by every measure.

18 There was many sleepless nights for me,
19 and probably others frustrated with me, too,
20 so -- but I did want to start with thanking
21 Will and Toshiba, the backbone of this
22 committee. They had the support of you all,
23 they had the support of Jeff and his team, but,
24 obviously, we couldn't have done that without
25 them. I tried to make my feelings known at the

1 Style and Drafting Committee, the stuff that
2 those -- those two people were doing. You
3 wouldn't even imagine it. You just couldn't
4 even imagine. You can't quantify it. You
5 can't pay them enough. You can't thank them
6 enough.

7 So I just wanted to acknowledge that
8 because I was, you know, Mr. Chairman, a rookie
9 myself at doing this sort of thing, and having
10 watched it is one thing, but having to do it is
11 something quite different.

12 I just wanted to say a couple of things
13 about kind of where we started and where we got
14 to. I just remember -- I had lots of thoughts
15 today about that meeting back in June, the
16 rules meeting that we had. It was contentious.
17 There was dispute, there was disagreement,
18 there was even some distrust, actually, and
19 that just comes from not knowing one another.
20 And, you know, it is funny how we were
21 criticized for, you know, postponing the rules.
22 I -- my advice -- and I am with Commissioner
23 Donalds, I don't know if any of the rest of you
24 know, but she's keeping a journal of all the
25 things that we want to teach the next people

1 that do this, and I am for the time capsule.

2 And one of the things that I am going to
3 tell them is actually postpone the rules for a
4 while, get to know one another, figure out
5 where the other people are coming from, and I
6 can assure you that it will -- it will be a
7 softer landing.

8 I wanted to mention something that was --
9 I'm sorry. President Gaetz had mentioned this
10 idea of, well -- oh, well, this is not a
11 bi-partisan commission. And that's pro- --
12 that is true for the most part, you know.
13 There's some Democrats that do more than fight
14 for -- I'm sorry, President Lee, yes.

15 Yes, you're right, President Gaetz.
16 But -- and that is true, the bi-partisanship,
17 or lack of it I think was the comment, but I
18 will tell you where we may have lacked in
19 bi-partisanship, we were certainly not lacking
20 in ideological differences and disputes
21 about -- I mean, you just saw it on this last
22 measure.

23 And if you go back, which I have studied a
24 lot of these votes and who was voting where
25 and, you know, even where they were coming from

1 geographically or otherwise, you can't build an
2 algorithm to predict any of that. And so where
3 we may have lacked on that end, we certainly
4 made up for in the area of -- of coming to
5 independent conclusions based on our own life
6 experiences and on the encouragement that we
7 got from one another.

8 Our Style and Drafting process, you know,
9 was not a perfect one, just like Proposal 39
10 was when it started, but I will tell you that I
11 believe that it was the best that we could do
12 with what we had. I will tell you that the
13 people that were on that committee worked
14 diligently and beautifully to perform the tasks
15 that were assigned to us. And we all didn't
16 get everything that we wanted, I can tell you
17 that.

18 And, you know, Commissioner Plymale, I
19 understand the heartbreak that you feel right
20 now, I do. Mine was just a few weeks ago.
21 Commissioner Martinez, same thing, you know.
22 But that's the way it goes, you know, and as
23 heart-breaking as it is.

24 I do want to point out that Commissioner
25 Martinez at least went 2 and 1 on today. I am

1 0 for 3. Like Coxe went 0 for a lot. And
2 there were -- look, the point I am trying to
3 make is -- and --

4 CHAIRMAN BERUFF: Time to wrap it up.

5 COMMISSIONER HEUCHAN: -- President -- I
6 know. Come on, Chairman, I'm -- I'm -- this is
7 the last time. So I just want to get it all
8 off my chest.

9 For those -- for those people that get to
10 do this regularly, Lee and Gaetz and Sprowls
11 and Joyner and Smith and -- you know, it is --
12 you know how hard this is. It looks like it is
13 all easy to bring things in for a landing, and
14 people -- well, somebody said, you know, it's
15 like, oh, herding a bunch of cats.

16 I said no, no, it is not herding cats.
17 These are Bengal tigers that you are dealing
18 with. And we have been on this aircraft
19 carrier and trying to dock this thing in a
20 little tiny port, and the thing just doesn't
21 move on a dime, right?

22 And so I just -- I don't know, Chairman, I
23 just want to end it on a lighter note, maybe a
24 positive note, and just as we lick our wounds
25 for those of us who need to do that, me

1 included, I just want to kind of recalibrate
2 your thinking that this -- this was a good
3 process, and while we all didn't get everything
4 we wanted, even for people like Commissioner
5 Timmann who actually went 3 for 3 on her
6 things, it wasn't exactly the way that she
7 planned it. It wasn't exactly the way that she
8 wanted it. And that is true for titles and
9 summaries and substance and -- you know, I
10 mean, Commissioner Donalds knows what I am
11 talking about.

12 So, anyway, I just -- I hope you all have
13 a smile on your face because we did do a good
14 job. It certainly didn't plan -- work out the
15 way I had wanted it to in every aspect, but
16 when you got 37 people who are all opinionated,
17 all, aside from myself, very successful at what
18 they do, you're going to come to these --
19 you're going to come to these battles, you
20 know.

21 And so win or lose, I am just proud of
22 everyone. I am particularly proud of the 11
23 people that worked with the Style and Drafting
24 Committee, and with that I appreciate it,
25 Mr. Chairman.

1 CHAIRMAN BERUFF: You're very welcome.

2 Commissioner Donalds is recognized for
3 brief comments.

4 COMMISSIONER DONALDS: Very brief.

5 Because Commissioner Heuchan referred to
6 it, I did have an idea for all of us to write a
7 letter to the next Constitution Revision
8 Commission, or whoever wants to participate,
9 over the next month or so while things are very
10 fresh in our minds about the process, the
11 rules, et cetera.

12 I think it would be really valuable to the
13 next Commission 20 years from now to hear from
14 us now instead of 20 years from now when they
15 look for what our experience was like. So I --
16 of course, I haven't talked to staff about
17 this, but -- or maybe I did mention it, but I
18 would be happy to coordinate that, and if you
19 know me, I am quite organized.

20 So I will be sure to deliver those things,
21 or perhaps I am sure staff has a way of passing
22 on what we have, but I would encourage all of
23 us to participate in writing a letter to the
24 next Commission and sharing some of our
25 experience and words of wisdom.

1 CHAIRMAN BERUFF: I would like --

2 COMMISSIONER COXE: I just want to say, I
3 don't know how many of you remember the first
4 day we met in this room and the appointing
5 authorities introduced each person who was
6 appointed, and one of us got a standing
7 ovation. I'll bet -- how many remember who got
8 the standing ovation?

9 It was Pam Stewart, because Pam Stewart
10 was a survivor. And he pointed that out to
11 everybody. She made it this far. And every
12 time we have a meeting, we ask Pam, tests okay,
13 everything is good. And, Pam, it so great to
14 still see you sitting there, believe me.

15 CHAIRMAN BERUFF: I am going to wrap up
16 one more comment only because I think that the
17 process worked, and I think that a large amount
18 of that credit goes to the staff, again,
19 because the process worked and they made it
20 work.

21 So I want to go ahead and acknowledge
22 Commissioner Cerio. You are recognized for a
23 motion. Thank you, Commissioner Cerio.

24 COMMISSIONER CERIO: Thank you, Mr. Chair.

25 I move that Chair Heuchan be authorized to

1 oversee preparation of the final report on
2 behalf of the Style and Drafting Committee and
3 provide such report to Chairman Beruff for
4 submission to the Secretary of State.

5 CHAIRMAN BERUFF: Without objection, the
6 motion is adopted.

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

9 COMMISSIONER CERIO: Thank you, Mr. Chair.

10 I move that Chair Heuchan be authorized to
11 make necessary title amendments, technical and
12 grammatical corrections that do not change the
13 substance of the proposal prior to delivery of
14 the final report to Chairman Beruff.

15 CHAIRMAN BERUFF: Without objection, the
16 motion is adopted.

17 Commissioner Cerio, you are recognized for
18 a motion.

19 COMMISSIONER CERIO: Thank you, Mr. Chair.

20 I move that Chairman Beruff be authorized
21 to approve the final report and transmit to the
22 Secretary -- and transmit it to the Secretary
23 of State on behalf of the Commission.

24 CHAIRMAN BERUFF: Without objection, the
25 motion is adopted.

1 Commissioner Cerio, you are recognized for
2 a final motion.

3 COMMISSIONER CERIO: My final motion.
4 Thank you, Mr. Chair.

5 I move that the Commission recess to
6 reconvene upon the call of the Chairman, and in
7 the absence of the call of the Chair, to
8 adjourn *sine die* on May 11, 2018.

9 CHAIRMAN BERUFF: I'm going to call for a
10 voice vote on that. And Commissioner Coxe, so
11 they can win one today. Put it on the board.

12 Okay. All those in favor signify, by
13 saying yea.

14 (Chorus of yea's.)

15 CHAIRMAN BERUFF: Opposed?

16 CHAIRMAN BERUFF: The motion is adopted.
17 The Commission will stand in recess. Thank you
18 very much.

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 318 through 464 represent a true, correct, and complete transcript of the tape-recording;

And I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

Dated this 22nd day of May, 2018.

CLARA C. ROTRUCK

Notary Public

State of Florida at Large

Commission Expires:

November 13, 2018

Commission NO.: FF 174037