

FLORIDA TAXATION AND BUDGET REFORM COMMISSION

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IN RE: Committee Meeting

DATE: February 26, 2008

TIME: Commenced at 9:08 a.m.  
Concluded at 10:09 a.m.

LOCATION: Knott Bldg., Room 412  
Tallahassee, FL

REPORTED BY: LISA D. FREEZE, RPR  
Notary Public

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MEMBERS OF THE COMMITTEE:

Hoyt "Barney" Barnett  
Martha W. Barnett  
Allan Bense  
R. Mark Bostick  
Talbot "Sandy" D'Alemberte  
Mike Haridopolos  
Mike Hogan  
Julia Johnson  
Bruce Kyle  
Carlos Lacasa  
Patricia Levesque  
Alan Levine  
Gwen Margolis  
Roberto "Bobby" Martinez  
Jacintha Mathis  
John M. McKay  
Robert "Bob" McKee  
Lesley J. "Les" Miller, Jr.  
Randy Miller  
Jade Thomas Moore  
Dan Gelber  
Nancy J. Riley  
Darryl E. Rouson  
Ray Sansom  
James "Jim" A. Scott  
Susan Story  
William Gregory "Greg" Turbeville  
Kenneth "Ken" Wilkinson  
Brian Yablonski

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

2 \* \* \*

3 CHAIRMAN BENSE: Let's call our meeting to  
4 order. Sorry to be a little tardy.

5 Nancy, could you call the roll, please.

6 MS. FRIER: Commissioner Barney Barnett.

7 MR. BARNETT: Here.

8 MS. FRIER: Commissioner Martha Barnett.

9 MS. BARNETT: Here.

10 MS. FRIER: Commissioner Bostick.

11 (No response.)

12 MS. FRIER: Commissioner D'Alemberte.

13 (No response.)

14 MS. FRIER: Commissioner Gelber.

15 MR. GELBER: Here.

16 MS. FRIER: Commissioner Haridopolos.

17 (No response.)  
18 MS. FRIER: Commissioner Hogan.  
19 (No response.)  
20 MS. FRIER: Commissioner Johnson.  
21 (No response.)  
22 MS. FRIER: Commissioner Kyle.  
23 JUDGE KYLE: Here.  
24 MS. FRIER: Commissioner Lacasa.  
25 (No response.)

4

1 MS. FRIER: Commissioner Levesque.  
2 (No response.)  
3 MS. FRIER: Commissioner Levine.  
4 (No response.)  
5 MS. FRIER: Commissioner Margolis.  
6 (No response.)  
7 MS. FRIER: Commissioner Martinez.  
8 (No response.)  
9 MS. FRIER: Commissioner Mathis.  
10 MS. MATHIS: Here.  
11 MS. FRIER: Commissioner McKay.  
12 MR. McKAY: Here.  
13 MS. FRIER: Commissioner McKee.

14 MR. McKEE: I'm here.  
15 MS. FRIER: Commissioner Les Miller.  
16 MR. LES MILLER: Here.  
17 MS. FRIER: Commissioner Randy Miller.  
18 MR. RANDY MILLER: Here.  
19 MS. FRIER: Commissioner Moore.  
20 MR. MOORE: Here.  
21 MS. FRIER: Commissioner Riley.  
22 MR. RILEY: Here.  
23 MS. FRIER: Commissioner Rouson.  
24 MR. ROUSON: Here.  
25 MS. FRIER: Commissioner Sansom.

5

1 (No response.)  
2 MS. FRIER: Commissioner Story.  
3 (No response.)  
4 MS. FRIER: Commissioner Turbeville.  
5 MR. TURBEVILLE: Here.  
6 MS. FRIER: Commissioner Wilkinson.  
7 MR. WILKINSON: Here.  
8 MS. FRIER: Commissioner Yablonski.  
9 MR. YABLONSKI: Here.  
10 MS. FRIER: Vice Chair Scott.

11 (No response.)

12 MS. FRIER: Chair Bense.

13 CHAIRMAN BENSE: Here.

14 Looks like we have a quorum, Members, so  
15 let's get started. First thing we are going to  
16 have is the introduction and swearing in of our  
17 new commissioner, Dan Gelber. Representative  
18 Gelber takes the place of Representative  
19 Peterman, who is moving on to a new position.  
20 We certainly wish him the best of luck.

21 How about if we have Judge Bruce Kyle, who  
22 is also a member of this commission, administer  
23 the oath of office to Representative Gelber.

24 You are recognized. Can I wear your robe?

25 JUDGE KYLE: Sure. Anyone can try it on.

6

1 I've got it right over there. One size fits all.

2 Please raise your right hand. "I," state  
3 your name.

4 MR. GELBER: I, Dan Gelber.

5 JUDGE KYLE: "Do solemnly swear or affirm."

6 MR. GELBER: Do solemnly swear or affirm.

7 JUDGE KYLE: "That I will support, protect,

8 and defend."

9 MR. GELBER: That I will support, protect,  
10 and defend.

11 JUDGE KYLE: "The Constitution of the United  
12 States."

13 MR. GELBER: The Constitution of the United  
14 States.

15 JUDGE KYLE: "And of the State of Florida."

16 MR. GELBER: And of the State of Florida.

17 JUDGE KYLE: "That I am duly qualified to  
18 hold office."

19 MR. GELBER: That I am duly qualified to hold  
20 office.

21 JUDGE KYLE: "Under the constitution of this  
22 state."

23 MR. GELBER: Under the constitution of this  
24 state.

25 JUDGE KYLE: "That I will well and faithfully

7

1 perform."

2 MR. GELBER: That I will well and faithfully  
3 perform.

4 JUDGE KYLE: "The duty of a member of the

5 Taxation and Budget Reform Commission."

6 MR. GELBER: The duty of a member of the  
7 Taxation and Budget Reform Commission.

8 JUDGE KYLE: "On which I am now about to  
9 enter."

10 MR. GELBER: On which I am now about to  
11 enter.

12 JUDGE KYLE: "So help me God."

13 MR. GELBER: So help me God.

14 CHAIRMAN BENSE: Congratulations,  
15 Representative Gelber.

16 (Applause.)

17 CHAIRMAN BENSE: No speeches.

18 MR. GELBER: No.

19 CHAIRMAN BENSE: I am not sure you know what  
20 you are getting yourself into, Representative  
21 Gelber.

22 Members, I am sure most of you know that  
23 Commissioner Gelber is also the minority leader  
24 of the Florida House of Representatives and a  
25 former colleague of mine whom I hold in the

1 highest regard. Congratulations.



2 MR. GELBER: Thank you.

3 CHAIRMAN BENSE: Also, special thanks to  
4 Commissioner Barnett and her husband Rick for  
5 hosting a wonderful social event last night at  
6 their beautiful home.

7 (Applause.)

8 CHAIRMAN BENSE: Mr. Goodlette, why don't we  
9 move on to the rules that we talked about last  
10 week. If you could make a presentation to us.  
11 Then we will follow that with the reports of  
12 committees, and we'll follow that with votes on --  
13 I think you'll have your agendas here -- votes on  
14 0017 and 0019.

15 Mr. Goodlette, you are recognized.

16 MR. GOODLETTE: Thank you, Mr. Chairman. I  
17 will try to be brief.

18 I did distribute an e-mail at the end of  
19 work on Friday that summarizes the changes that  
20 have been made. You will recall at the last  
21 meeting of the commission that we had some  
22 discussion about the process, if you will, and  
23 the number of votes. These proposed changes  
24 that are before you today, those have been done

25 as a result of work since the last commission

9

1 meeting by our general counsel, Tom Cibula,  
2 myself, and Commissioner Martha Barnett.

3 And I would be happy to answer any  
4 questions you may have, but suffice it to say,  
5 under Rule 6.010, and that's contained in the  
6 memo that I had distributed, there is a --  
7 6.010, there's a change that now contemplates  
8 that all measures, constitutional proposals as  
9 well as statutory recommendations, once they  
10 pass favorably through all committees of  
11 reference, must be placed on the agenda of the  
12 commission.

13 There was previously some concern about  
14 some measures that had previously been approved  
15 that may not be required to come before the  
16 commission. I think, after discussing that  
17 with Commissioner Barnett, we thought that was  
18 an appropriate revision. So that was not  
19 discussed at the last meeting, but I think it's  
20 probably noncontroversial because any statutory  
21 recommendations and all constitutional

22 proposals reported favorably out of all  
23 committees of reference would then be placed on  
24 the agenda of the commission.

25 The other change, frankly, incorporates --

10

1 we discussed previously the Style and Drafting  
2 Committee. This proposed proposal before you  
3 expands the scope of the responsibility of  
4 Styling and Drafting to, in addition to  
5 conducting the technical review, to also take  
6 into consideration and to -- really, their  
7 authority is expanded to combine constitutional  
8 proposals and also to determine the order that  
9 those would appear on the ballot. Those  
10 previously, we had discussed, was a function of  
11 a coordinating committee.

12 We believe, because of the compression of  
13 time, it was our view that the Style and  
14 Drafting was the appropriate committee to do  
15 all of those things. If there are any  
16 questions about our thought process, I would be  
17 happy to answer those, but, primarily, that was  
18 because of the existency of time.

19           Then, finally and importantly, the current  
20 rules, as I mentioned last time, contemplate  
21 three votes, supermajority votes, of 17. This  
22 proposal contemplates just two votes of 17. At  
23 the first hearing, either 6.011 -- I'm sorry,  
24 6.0107 contemplates -- and that's the first  
25 hearing -- contemplates a 17-vote requirement.

11

1           It then goes to the Style and Drafting -- it's  
2 a constitutional proposal -- then goes to the  
3 Styling and Drafting Committee, and then comes  
4 back for a final hearing, and that's under  
5 6.012 of the rules.

6           At the final hearing, the recommendations,  
7 which would be -- the recommendations coming to  
8 this group from the Style and Drafting would  
9 primarily be combining measures or would be the  
10 order in which they're going to appear on the  
11 ballot. To change those recommendations would  
12 require majority vote, but from final approval,  
13 as required by Article 11, Section 6, of the  
14 state constitution, the measure would require  
15 17 votes.

16           And the final thought that's incorporated  
17           in this that wasn't previously discussed is, if  
18           there are any amendments on the second reading,  
19           at the second hearing, the final hearing, what  
20           I am describing as the final hearing, any  
21           amendments to the substance would also require  
22           17 votes. So that's a summary of the changes  
23           that are before you.

24           And there's another -- just a technical  
25           matter, Mr. Chairman, after any questions, I

12

1           want to cover, because the rules as they  
2           currently exist contemplate that this amendment  
3           would go to a committee that doesn't exist, and  
4           I wanted to just make sure that we covered  
5           that.

6           CHAIRMAN BENSE: Okay. Members, I think  
7           you-all received these proposed changes last week.  
8           You've had time to review them. They appear to be  
9           pretty much what I saw heads nodding up and down  
10          on at our last meeting.

11          I want to also thank Martha Barnett and  
12          Tom Cibula, who have put a lot of time into



10 recognized.

11 MR. GOODLETTE: Thank you, Commissioner  
12 Mathis. We don't anticipate that. We did discuss  
13 that, and we would hope that there would be very  
14 few amendments, substantive amendments, at stop 8  
15 on your chart. I should have been referring to  
16 the chart because maybe that's what's in front of  
17 you. That's what I refer to as the final hearing.  
18 But if that was necessary, we think that would  
19 have to just be done at the final hearing because  
20 there wouldn't be time to send it back to Style  
21 and Drafting again. That was our concern.

22 I think -- Commissioner Barnett, do you  
23 want to comment on that?

24 CHAIRMAN BENSE: Commissioner Barnett, you  
25 are recognized. Why don't you weigh in on that a

14

1 little bit.

2 MS. BARNETT: Thank you. I think the idea  
3 was, as Mr. Goodlette said, is that would be an  
4 unusual circumstance. If it did require -- if it  
5 was of the nature that did require it, the Chair  
6 could allow the committee, the Styling and

7 Drafting Committee, to meet and debate or discuss  
8 the need for any changes in the ballot language or  
9 the title or something like that.

10 CHAIRMAN BENSE: Members, I don't think  
11 there's a perfect solution. I think this is about  
12 as close to what all of us seem to agree upon.  
13 Obviously, with respect to the Style and Drafting  
14 Committee, it requires a little bit of a leap of  
15 faith, but I am pleased with what we had.

16 More questions?

17 Commissioner Gelber, you are recognized.

18 MR. GELBER: Thank you. Just so I  
19 understand, Step 8, if the Style and Drafting  
20 Committee combines measures that perhaps the full  
21 committee is not comfortable with, would that be  
22 considered a majority vote? In other words, since  
23 it's already been approved, if it came back here,  
24 the full committee could simply separate them and  
25 change whatever Style and Drafting did by way of

15

1 combination of measures?

2 MR. GOODLETTE: And that would be a majority  
3 vote, yes, Commissioner Gelber.



4           CHAIRMAN BENSE: More discussion? I want to  
5           make sure everyone is clear on this.

6           Okay. Commissioner Barnett moves that the  
7           rules be adopted based upon the information  
8           that you have received, the proposed drafting  
9           submission of consideration of measures that  
10          you received last week. You've heard an  
11          explanation by Mr. Goodlette. Commissioner  
12          Barnett moves that we consider this motion.

13                 Are there questions? Is there debate?

14                 Hearing none, all in favor say "Aye,"  
15                 opposed "No."

16                 The rules have been amended.

17                 Mr. Goodlette, was there another rule we  
18                 wanted to -- that you pointed out to me just a  
19                 while ago?

20                 MR. GOODLETTE: I think, just so the record  
21                 is clear, Mr. Chairman, the rules that currently  
22                 exist, Rule 5.002 contemplates the following:  
23                 "All proposed actions relating to the rules after  
24                 adoption of the final rules, which has already  
25                 occurred, shall be presented to the coordinating

1 committee for recommendation to the full  
2 commission."

3 Since that coordinating committee was  
4 never, I guess, officially appointed, I think  
5 it's important that the subcommittee or the  
6 committee of one member, Commissioner Barnett,  
7 working together with me and Tom Cibula, have  
8 basically offered that amendment that was just  
9 approved. I think it's important that that  
10 Rule 5.002 be waived for the purpose of  
11 accepting the recommendation that you've just  
12 approved.

13 I just wanted to make -- I just think  
14 it's -- to be technically correct, I think it  
15 would be appropriate for the record to have a  
16 motion to -- which would require a two-third  
17 vote, to waive the provisions of Rule 5.002.

18 CHAIRMAN BENSE: Does everyone understand?  
19 Okay. Commissioner Levesque moves.

20 Questions? Debate? Are there objections?

21 Seeing none, it is unanimous that  
22 Rule 5.002 be waived.

23 MR. GOODLETTE: Thank you very much,

24 Mr. Chairman.

25 CHAIRMAN BENSE: Commissioner Miller, you are

17

1 recognized.

2 MR. LES MILLER: It appears that the Style  
3 and Drafting Committee would have a lot of work to  
4 get done starting pretty soon. When are you  
5 anticipating on appointing that?

6 CHAIRMAN BENSE: Right now.

7 MR. LES MILLER: Okay.

8 CHAIRMAN BENSE: Right now.

9 Members, some of you have come to me  
10 requesting to be on the Styling and Drafting  
11 Committee. I propose that the Styling and  
12 Drafting Committee consist of Patricia  
13 Levesque, Martha Barnett, Mike Hogan, Jim  
14 Scott, Les Miller, as well as myself. That's  
15 six people. Is there anyone else that wants to  
16 join the fun?

17 Okay. Commissioner Les Miller, do you  
18 move that those six names I just called out be  
19 part of the Styling and Drafting Committee?

20 MR. LES MILLER: I move.

21 CHAIRMAN BENSE: Is there -- there's a  
22 second.

23 Is there a discussion? Are there  
24 questions? Are there objections?

25 Seeing none, the members of the Styling

18

1 and Drafting Committee are Patricia Levesque,  
2 Martha Barnett, Mike Hogan, Jim Scott, Les  
3 Miller, and Allan Bense.

4 Okay. Let's move on to reports of  
5 committees.

6 Chairman Susan Story cannot be here for  
7 this meeting; although, she will be back for  
8 this afternoon's F and T meeting. Commissioner  
9 Kyle is going to make the report of the F and T  
10 committee.

11 JUDGE KYLE: Thank you, Mr. Chairman. The  
12 finance and tax committee met yesterday and passed  
13 an amended version of CP0002 and an amended  
14 version of Constitutional Proposal 21. Both  
15 proposals addressed the reduction of the ad  
16 valorem school taxes and replacement of those  
17 taxes from other sources.

18           In addition, the committee passed CP50,  
19           which also addresses the required local effort  
20           in a manner very similar to how CP2 was  
21           amended. The committee passed Statutory  
22           Recommendation 49 to address zero-based  
23           line-item budgeting for local government units,  
24           and the committee meets again this afternoon  
25           from 1:30 to 6:00 p.m. and will take up

19

1           Constitutional Proposal 48 by Commissioner  
2           Martha Barnett, Constitutional Proposal 35 by  
3           the Governmental Services Committee, and  
4           Statutory Recommendation 36 by the Governmental  
5           Services Committee as well. I have been told  
6           we should not be there until six. I guess we  
7           are hopeful.

8           CHAIRMAN BENSE: Commission Turbeville -- any  
9           questions on the F and T meeting?

10          Thank you, Commissioner Kyle.

11          Commissioner Turbeville, are you ready to  
12          do the Procedures and Structures committee or  
13          do you want some time?

14          MR. TURBEVILLE: Sure. No, I'm ready.

15 CHAIRMAN BENSE: You are recognized.

16 MR. TURBEVILLE: Yesterday the Governmental  
17 Procedures and Structures Committee met. We had  
18 seven items on the agenda, three of which were  
19 postponed to a future meeting. Those three items  
20 were Constitutional Proposal No. 22 by  
21 Commissioner Rouson dealing with affordable  
22 housing. That was TP'd. Also, Constitutional  
23 Proposal No. 42, which dealt with property  
24 assessment and presumption of correctness by  
25 Commissioner Barney Barnett, as well as

20

1 Constitutional Proposal No. 46 by Commissioner  
2 Hogan that dealt with unfunded mandates, due to  
3 various reasons, those three proposals were  
4 temporarily postponed.

5 The four proposals that did pass  
6 yesterday, one was Constitutional Proposal 07  
7 by the F and T Committee, which requires the  
8 Legislature to vote on whether to repeal sales  
9 tax exemptions. It sets up a process for that.  
10 That passed out of the committee four to three.

11 Also, Constitutional Proposal No. 26 by

12 Commissioner Turbeville, which requires  
13 65 percent of school funding to be spent in the  
14 classroom rather than on administration, that  
15 passed out of committee unanimously.

16 Also, Statutory Revision No. 29 by the  
17 F and T Committee, which creates a joint  
18 legislative committee to review sales tax  
19 exemptions passed out of the committee.

20 And finally, a committee work product  
21 which deals with the Blaine and uniformity  
22 provisions in the constitution was considered  
23 in previous meetings, and it was passed out of  
24 the committee yesterday unanimously.

25 The actual substance came from some of the

21

1 public testimony that the committee had  
2 received from various groups that said there  
3 was still a threat to educational programs,  
4 some of which are school-choice programs and  
5 known under that banner. Others, other  
6 programs, that are also threatened are  
7 healthcare programs. So this particular  
8 committee work product that was approved

9           unanimously by the committee authorizes the  
10          Legislature to provide public services through  
11          private providers without regard to their  
12          religious nature and do so in a way that is in  
13          the best benefit of those who are receiving the  
14          services.

15                 So Constitutional Proposal No. 40 was  
16          approved by the committee. Hopefully, we'll  
17          have additional committee work product that  
18          will pass out of the committee in future  
19          meetings.

20                 CHAIRMAN BENSE: Any questions of  
21          Commissioner Turbeville?

22                 Okay. Government Services was chaired by  
23          Commissioner Martinez, and Commissioner Les  
24          Miller is going to give that report. We  
25          recognize Commissioner Miller.

22

1                 MR. LES MILLER: Thank you, Mr. Chairman.  
2          The Governmental Services Committee met yesterday  
3          and passed out a couple of constitutional  
4          proposals and statutory recommendations. The  
5          first one is Statutory Recommendation 36 by the



6 Governmental Services Committee relating to  
7 taxation structure to fund transportation programs  
8 with amendments. It also passed Constitutional  
9 Proposal 30 by the Governmental Services Committee  
10 to modify the class size of the amendment.

11 It passed out Constitutional Proposal 35  
12 by the Governmental Services Committee to allow  
13 local optional tax to supplement community  
14 college funding.

15 It passed out Statutory Recommendation by  
16 the Governmental Services Committee relating to  
17 alternatives to year and one day citizen to  
18 reduce correction cost. And, finally, voted to  
19 approve the committee report on state court  
20 system.

21 CHAIRMAN BENSE: Any questions of  
22 Commissioner Miller?

23 Thank you, Commissioner Miller, for  
24 stepping in there.

25 Let's move on to Statutory Recommendation

23

1 No. 0017 by the Finance and Tax Committee.

2 This deals with the streamlined sales tax.

3           Commissioner Miller, you are recognized to  
4           present the proposal.

5           MR. RANDY MILLER: Mr. Chair, I would like to  
6           go to the well right there, if I could.

7           CHAIRMAN BENSE: You got it.

8           Next up will be Commissioner Rouson, but  
9           we'll focus on Commissioner Miller for now.

10          MR. RANDY MILLER: Thank you, Mr. Chair.  
11          Members of the commission. I am going to talk to  
12          you about an issue that -- Statutory  
13          Recommendation 17, which deals with streamlined  
14          sales tax. This is an issue that has been  
15          discussed by the Finance and Tax Committee and was  
16          adopted by the committee, and now I have been  
17          assigned ownership to try to get it through the  
18          commission as well as to try to work with the  
19          Legislature in the upcoming session to try to get  
20          this proposal enacted into law.

21          All right. What is the background? There  
22          has been a slippage in the sales tax collection  
23          for many, many years, going back to 1966 with a  
24          case called National Bellas Hess as the first  
25          time the Supreme Court said states cannot

1       require someone not located in that state to  
2       collect their sales tax. It was over --  
3       National Bellas Hess dealt with some catalog  
4       sales.

5               So in 1986, when I was revenue director,  
6       we started seeing some problems with this  
7       issue, and we passed into Florida law a  
8       mechanism to try to enter into contacts with  
9       other states where they would collect our sales  
10      tax for us and we would collect their sales tax  
11      for them on citizens between shipping back and  
12      forth. The biggest scam we had going then was  
13      mail order sales. The sales tax was not  
14      collected, but, in fact, what was happening was  
15      a lot of folks were just using out-of-state  
16      addresses and putting the item in their pocket,  
17      primarily expensive jewelry in their pocket,  
18      and sending them back a box of sand in New  
19      York. So we saw a lot of that. We tried that.  
20      It didn't work. Just too cumbersome to work.

21              Later on, Internet cropped up, and  
22      Internet and e-commerce has become a

23 significant, significant issue in our economy.  
24 There is slippage here because we still have  
25 another case that came along called Quill that

25

1 further affirmed that the states cannot require  
2 a remote seller to collect its sales tax.  
3 There's a lot of reasons for that, and we'll  
4 get into it. But that's just a quick overview  
5 of where we were in Florida.

6 The Sales Tax Simplification project is an  
7 ongoing process today. Currently, we have 45  
8 states plus the District of Columbia that  
9 impose a sales and use tax. However, there are  
10 over 7,000 jurisdictions that impose a sales  
11 tax and use tax administered by the states in  
12 Alabama, Colorado, and Louisiana at the county  
13 level, city level. So it's a big problem for  
14 retailers to understand what the tax rate is in  
15 those 7,000 jurisdictions.

16 Retailers located in the state are  
17 required to collect the tax. If you have a  
18 physical presence in that state, you have to  
19 collect the tax.

20           Now, the corollary to the sales tax is the  
21           use tax. It's owed by the consumer when the  
22           retailer does not collect the tax. So if you  
23           buy something -- let's say here in Tallahassee  
24           you're able to go to Georgia, 19 miles away.  
25           You buy something big and bring it back, you

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1           are supposed to pay the use tax. I am sure all  
2           of us do.

3           But there is a site -- in case your  
4           conscience is getting to you, there is a site  
5           on the Department of Revenue website that you  
6           can go in and find that form and pay up through  
7           your past indiscretions, and I am sure all of  
8           you will do that.

9           But for decades the states have sought to  
10          have out-of-state retailers collect their tax.  
11          1992, in Quill Corp., again reaffirmed that the  
12          states have no authority. If the retailer has  
13          no physical presence in the state, it would  
14          burden it, be a burden on interstate commerce  
15          and would therefore violate the commerce clause  
16          of the U.S. Constitution.

17           So what does that mean? When you are  
18           looking on -- even on your TV, when you see  
19           these infomercials, if that guy is not located  
20           in the state of Florida, we are not going to  
21           collect any tax on him. Now, Home Shopping  
22           Network, on the other hand, when they are on  
23           the cable and you decide to buy something, and  
24           it's going to be mailed to your Florida  
25           address, they're going to collect the tax. But

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1           they are not going to collect that tax if they  
2           made at 19 miles further north. It's just the  
3           way it works.

4           Now, some of the states, what's at stake,  
5           compliance with the sale tax laws by multistate  
6           corporations is too complex. Fact: Local  
7           merchants suffer from a lack of a level playing  
8           field.

9           And that's what we are talking about here.  
10          My constituents, the people I am employed by,  
11          are saying, "Hey, we want a level playing  
12          field." It's not about the money; it's about  
13          the level playing field. And we'll talk about

14           that a little bit in a few minutes.

15                   But there are significant losses of  
16           revenue expected due to the growth in  
17           electronic commerce. Just as an aside, we  
18           estimate it increased about 28 percent last  
19           year. It is getting tremendous. It is huge.

20                   We've had some studies done back in 2004.  
21           Dr. Bill Fox at the University of Tennessee  
22           produced a study on state and local government  
23           losses to the Internet. About 15 to  
24           \$16 billion in 2003 was their estimate at that  
25           time. They have since gone back and adjusted

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1           those, looking at the economy and some of the  
2           slippage in the economy, and have come back and  
3           said, "Okay. For those guys that were critical  
4           of our process, we will do a low and we will do  
5           a high." But if you still look at the low,  
6           it's 21 and half billion dollars versus  
7           33.7 billion on the high end of lost tax.  
8           That's not the sales. That is the tax that  
9           we're losing to all governments in the country,  
10          state and local.

11           And we expect -- like I said, the trend is  
12           increasing, 28 percent. I know a lot of you  
13           here, you may not want to admit it, but, at one  
14           time or another, probably has bought something  
15           over the Internet. And where there's a choice,  
16           let's say sometimes when you look and you can  
17           get the same item, and you got a Florida-based  
18           retailer, and you know he's going to collect  
19           the taxes when you go to check out and you see  
20           that tax, but when you can go get the same item  
21           from someone else out of state, there is no  
22           tax, and typically, there is no shipping costs.  
23           So where do you buy it? You go on the  
24           Internet, and the next day or so it shows up.

25           Anyway, to try to solve this, when the

29

1           Court issued the last decision in Quill, the  
2           National Governors Association and the NCSL  
3           requested the National Association of Tax  
4           Administrators to assist in coming up with some  
5           way to solve this problem. Everybody sees it  
6           as a big, big problem. They wanted us to work  
7           together to make the system less complex,



8 address the unlevel playing field for merchants  
9 in state, and we have a lot of them in the  
10 state of Florida that are concerned about it;  
11 address losses of revenue from states unable to  
12 collect taxes already imposed.

13 Let me stress one more time: This tax is  
14 already due; it's just the State of Florida has  
15 no easy mechanism to collect it. A lot of  
16 states that have personal income tax have a box  
17 on the tax return at the end. You estimate  
18 what your income was, and, typically, you would  
19 see, well, how much did you spend over the  
20 Internet, calculate your tax, and send it in.  
21 That's the way they are doing it. I am not  
22 proposing we do it that way, but we do need to  
23 solve the problem.

24 Who is involved with this project? You  
25 got 44 states, District of Columbia, and Puerto

30

1 Rico. You have the legislative branch and  
2 executive branches in those states, local  
3 governments, tax practitioners. The business  
4 community has been a big, big advocate of this

5 and has worked closely with all the National  
6 Associations to try to get something that is  
7 reasonable and is possible to do.

8 We wanted to create a simpler system for  
9 administering the various state and local sales  
10 taxes; where something could not be made more  
11 simple, make it uniform; balance the interest  
12 of the state sovereignty with the interest of  
13 simplicity and uniformity.

14 There's been some discussion that, if you  
15 join this, you lose your sovereignty. That is  
16 not correct. The simple facts are you, the  
17 State -- in this case, State Legislature -- can  
18 determine whether to tax an item or exempt it.  
19 All we are simply doing here with this proposal  
20 is making the definitions uniform. Whether to  
21 tax it or not is still a decision of the  
22 Legislature.

23 We want to leverage the use of technology  
24 fees to tax collection, try to correct that  
25 burden that the Court spoke of.

2       which I have a copy of it if anybody would like  
3       to see it, was approved in November 2002.

4       Again, the provisions are based on  
5       simplification, uniformity, and technology  
6       principles: Simplification, uniformity,  
7       technology, balancing of the interests.

8               Effective October 1, 2005, we had 17 full  
9       members and five associate members that are  
10      coming in as we speak. January 1st, 2008,  
11      Nevada, Ohio, Tennessee, Utah, and Washington  
12      became full members. We're asking that we have  
13      Florida added to that group.

14             The governance of the program is you have  
15      a governing board. Each state has a vote and a  
16      member. You can have four delegates, but you  
17      have one vote. You have the -- the governing  
18      board is a nonprofit entity. The governing  
19      board is advised by a state and local advisory  
20      council and a business advisory council.

21             Now, getting back to that four-member  
22      delegation, the Legislature can decide who  
23      those are. You can be a Governor and each  
24      House; it can be any combination. But we only

25 have one vote.

32

1 Now, part of the problem was someone asked  
2 the question the other day: Well, if this is  
3 such a good idea, why hasn't California joined?  
4 Well, California, with its 58 million  
5 population, has decided it is bigger than most  
6 countries, and it will not accept one vote. It  
7 wants two or three. So they have not come in.  
8 And they do have a big problem out there that  
9 they are going to have to try to address  
10 eventually.

11 But, to try to summarize, what we would be  
12 asking the Legislature to do would be to change  
13 the Florida sales and use tax law to conform  
14 with the agreement.

15 Now, what is that going to do for us right  
16 now? It will not increase any big sum of money  
17 that will be collected. As a matter of fact,  
18 we will probably lose some money initially on  
19 it because of some of the provisions in the  
20 uniformity of how you round. Florida has been  
21 taking advantage of math for a long time and

22       been going out to the fourth place and rounding  
23       up. This one is a three-place down. So it  
24       costs about \$48 million in savings to the  
25       citizens on the street every day if we would

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1       adopt that. So there's some changes.

2               It's unfortunate that Florida was not at  
3       the table with a full vote when some of these  
4       definitions -- and I am not going to say a  
5       thing, Mr. Speaker -- when Florida was not at  
6       the table during some of the formative  
7       discussions of this proposal, of this plan.

8               What does it mean today if we adopted it?  
9       We would be looking at voluntary compliance.  
10      There are 1,100 companies that have voluntarily  
11      registered to collect the tax for those 22  
12      states. They have collected \$87 million last  
13      year for those 22 states.

14              Now, the numbers get bigger the more you  
15      rely on sales tax. For the state of Florida,  
16      our sales tax collections are about \$21 million  
17      a year. So you can see that it would have a  
18      significant impact on our collections, but it's

19 only going to be voluntary.

20 Now, those that are registered in the  
21 state of Florida, nothing changes for those.  
22 Those guys will not be expected to collect the  
23 tax for the state of Alabama or Georgia. It's  
24 only those that register for multistate  
25 transactions voluntarily that would be impacted

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1 initially.

2 Now, Congress has before it a bill that  
3 would be required to be passed by the Congress  
4 to allow full implementation of this. Once it  
5 is done, then all states would participate, and  
6 the vendors, remote vendors, would have to  
7 collect the sales tax. And that's where we  
8 want to be. Nothing's going to happen today,  
9 but we need to be in the position not to have  
10 to have this debate after Congress acts.

11 Now, some of you are going to say, "Well,  
12 Congress has been looking at this for many,  
13 many years." They have. Eventually, it will  
14 happen. Eventually, when e-commerce gets to  
15 the level that it's a more significant problem

16           than it is today, I think Congress will act.

17           But we, as the states, have come together and  
18           solved the problem.

19                   (Brief interruption by telephone.)

20           MR. RANDY MILLER: Anyway, we will be in a  
21           position to participate, and I think it's the  
22           right thing for the State of Florida to do. I  
23           think it levels the playing field --

24                   (Brief interruption by telephone.)

25           MR. RANDY MILLER: Anyway, it will level the

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1           playing field for Florida retailers, and it will  
2           make law-abiding citizens of a lot of our folks  
3           who are not currently aware that they should be  
4           paying the taxes.

5           Mr. Chairman, I'd be happy to answer any  
6           questions, if I might.

7           CHAIRMAN BENSE: Are there questions of the  
8           sponsor of the proposal?

9           Commissioner Hogan, you are recognized.

10          MR. HOGAN: Thank you, Mr. Chairman. I spend  
11          a lot of time on the Internet, and I am a  
12          collector. I collect coats and cameras and

13 elephants and a lot of different things, and it's  
14 almost like some of the host engines are like flea  
15 markets. I know it's probably early to ask you  
16 this question, but what is the thought in regards  
17 to who would collect the tax? I mean, there are  
18 millions of people selling.

19 MR. RANDY MILLER: Yes.

20 MR. HOGAN: For instance, E-bay, would E-bay  
21 then be responsible for collecting the taxes?

22 MR. RANDY MILLER: That's a very good  
23 question, Mr. Hogan. What we have in the proposal  
24 is a \$5 million or floor to be required to  
25 participate. In other words, if you are a vendor

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1 on E-bay and your annual sales are less than  
2 \$5 million, which is quite a lot of money. I  
3 mean, that's not really typically what we would  
4 recognize as small business, but that is the  
5 number that's contained in the agreement is  
6 \$5 million. So E-bay, individuals on E-bay that  
7 sell less than \$5 million, would not be required  
8 to have to register and collect the tax.

9 Now, one thing I could -- I've skipped



10 over it, but the technology part is there will  
11 be certified vendors that will be able to  
12 provide the tax-collection software. Then,  
13 basically, you just plug it right into your  
14 computer. It's not a big deal. Plus you have  
15 some protections on audit that you would not be  
16 subjected to all of the audits from all of the  
17 states if you have a certified vendor package  
18 that you are using to collect the tax.

19 Any other questions?

20 CHAIRMAN BENSE: Commissioner Hogan, I hope  
21 you have a big backyard if you collect elephants.

22 MR. HOGAN: Not live ones, no.

23 CHAIRMAN BENSE: Any more questions?

24 All right. Commissioner Moore, you are  
25 recognized for questioning.

37

1 MR. MOORE: Randy, this sounds like such a  
2 great idea. Why hasn't the Legislature already  
3 approved it?

4 MR. RANDY MILLER: Well, in the past, we've  
5 had plenty of money, and it's just not been a big  
6 issue. But it's not about the money; it's about

7 equity and leveling the playing field.

8 But there are some that believe that this  
9 would be a tax increase, and it is not a tax  
10 increase, ladies and gentlemen. The tax is  
11 already due. This is just simply a mechanism  
12 to collect the tax that is already due.

13 CHAIRMAN BENSE: Commissioner Kyle, you are  
14 recognized.

15 JUDGE KYLE: Thank you, Mr. Speaker.

16 So Florida would get one vote if they  
17 joined the governance board, correct?

18 MR. RANDY MILLER: Correct.

19 JUDGE KYLE: The board is what sets the  
20 definitions for the taxes, correct?

21 MR. RANDY MILLER: Correct.

22 JUDGE KYLE: So if Florida voted no and  
23 everyone else voted yes, we would have to come  
24 back and change the definitions for Florida to  
25 match the governing board; right?

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1 MR. RANDY MILLER: The -- yeah.

2 JUDGE KYLE: The bottom line. It appears to  
3 me that you are giving up some of Florida's

4 governing authority by joining.

5 MR. RANDY MILLER: No, you are not. What you  
6 are doing is you're establishing uniform  
7 definitions. Now, you can exempt or tax those,  
8 but we will have a definition of what is -- let's  
9 say, what is a candy bar would be standard all  
10 across the United States; whereas, today, it is  
11 not. But then you have the decision whether or  
12 not you want to tax that candy bar or not.

13 CHAIRMAN BENSE: Commissioner Kyle for  
14 follow-up.

15 JUDGE KYLE: But if you disagree with the  
16 definition, you still have to go with their  
17 definition.

18 MR. RANDY MILLER: Well, it's the same as the  
19 Uniform Commercial Code, Commissioner.

20 JUDGE KYLE: Okay.

21 CHAIRMAN BENSE: Commissioner Yablonski, you  
22 are recognized.

23 MR. YABLONSKI: Commissioner Miller, you had  
24 the conversation about California and why they  
25 were not full members. Also, I think Texas and

1 New York are not full members yet. Do you know  
2 the reason why those other large states have not  
3 joined? Is it the same reason as California?

4 MR. RANDY MILLER: Texas has had some  
5 problems with the way you source the sale, but  
6 they are working through that. We made some  
7 accommodation --

8 And, Mr. Kyle, there is accommodations  
9 made by the board. If there is a big problem  
10 with the state, they will work with the state  
11 to try to get that accommodated.

12 But they are moving along, Commissioner  
13 Yablonski, and should be in the pack pretty  
14 soon.

15 MR. YABLONSKI: New York?

16 MR. RANDY MILLER: New York? I don't know  
17 the story on New York. I know about Texas.

18 CHAIRMAN BENSE: Commissioner Turbeville, you  
19 are recognized.

20 MR. TURBEVILLE: Since there are 22 states  
21 currently participating, if Florida adopted this  
22 measure, we would voluntarily comply with those  
23 other 22 states that are already part of the

24 coalition; is that correct?

25 MR. RANDY MILLER: We would be adopting

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1 standard definitions in our sales tax laws. We  
2 would not necessarily adopt the same treatment of  
3 the taxation of those items under Florida law.  
4 But the proposal we have before us today would be  
5 doing that, but the Legislature has the ability  
6 not to do some of those things.

7 MR. TURBEVILLE: Just as a follow-up,  
8 Chairman, do we know how many exemptions currently  
9 in law in Florida will be affected by this  
10 modification or by the new rules set at the  
11 national level?

12 MR. RANDY MILLER: I have not -- I am sure  
13 that the staff has evaluated that. I have not  
14 taken a close look at that. But again, exemption,  
15 taxation, is a matter of states' desires. So we  
16 would be taking whatever we have exempt would be  
17 exempt under this proposal.

18 CHAIRMAN BENSE: Commissioner D'Alemberte,  
19 you are recognized.

20 MR. D'ALEMBERTE: Commissioner Miller, the

21 provision relating to the \$5,000 cap on  
22 discretionary sales surtax, is that a necessary  
23 part of this? And does Florida at that point then  
24 cap a sales tax on these items of motor vehicles,  
25 aircraft, boats, and so forth?

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1 MR. RANDY MILLER: Commissioner D'Alemberte,  
2 the \$5,000 is a provision in current Florida law  
3 on local option taxes already.

4 MR. D'ALEMBERTE: On local option tax, yeah.

5 MR. RANDY MILLER: Yeah.

6 MR. D'ALEMBERTE: But not on state sales tax.

7 MR. RANDY MILLER: No.

8 CHAIRMAN BENSE: Further questions? Further  
9 questions of the sponsor?

10 Are there any amendments out here on this?

11 None floating around.

12 Okay. How about debate? Is there debate?  
13 Is there a debate on the proposal? I think  
14 most of you got your debate out in the question  
15 phase.

16 Before we close, I want to answer  
17 Commissioner Moore's question about why didn't

18       it pass before. Probably I was more  
19       responsible for anyone else for not bringing  
20       this up in the Florida House.

21             My reasons, frankly, were there was so  
22       much money coming in during that period of time  
23       of 2004, 2005, 2006, that I just didn't think  
24       that the government needed any more money at  
25       that point in time.

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1             I am going to support this today because I  
2       think that times are tougher, and it's also a  
3       matter of fairness. You do have retailers that  
4       are out there that have bricks and mortgages,  
5       pay ad valorem taxes and so on, and you also  
6       have my support.

7             But I also have to add that, during your  
8       presentation, Commissioner D'Alemberte told me  
9       he does fill out the forms on the Department of  
10      Revenue site. Anyone else, I wouldn't believe  
11      it, but I believe you.

12            MR. D'ALEMBERTE: I just started doing it.

13            MR. RANDY MILLER: Early on, when we had this  
14      discussion, he asked about -- he said, "Where

15           would I go to do this?" And I explained to him  
16           how to go on the Internet and find that site. So  
17           he's been doing it.

18           CHAIRMAN BENSE: Any more debate?

19           Seeing none, Commissioner Miller having  
20           closed on his proposal, Nancy, please call the  
21           role.

22           MS. FRIER: Commissioner Barney Barnett?

23           MR. BARNETT: Yes.

24           MS. FRIER: Commissioner Martha Barnett?

25           MS. BARNETT: Yes.

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1           MS. FRIER: Commissioner D'Alemberte?

2           MR. D'ALEMBERTE: Yes.

3           MS. FRIER: Commissioner Hogan?

4           MR. HOGAN: Yes.

5           MS. FRIER: Commissioner Kyle?

6           JUDGE KYLE: No.

7           MS. FRIER: Commissioner Levesque?

8           MS. LEVESQUE: Yes.

9           MS. FRIER: Commissioner Mathis?

10          MS. MATHIS: Yes.

11          MS. FRIER: Commissioner McKay?



12 MR. McKAY: Yes.  
13 MS. FRIER: Commissioner McKee?  
14 MR. McKEE: No.  
15 MS. FRIER: Commissioner Les Miller?  
16 MR. LES MILLER: Yes.  
17 MS. FRIER: Commissioner Randy Miller?  
18 MR. RANDY MILLER: Yes.  
19 MS. FRIER: Commissioner Moore?  
20 MR. MOORE: Yes.  
21 MS. FRIER: Commissioner Riley?  
22 MS. RILEY: Yes.  
23 MS. FRIER: Commissioner Rouson?  
24 MR. ROUSON: Yes.  
25 MS. FRIER: Commissioner Turbeville?

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1 MR. TURBEVILLE: No.  
2 MS. FRIER: Commissioner Wilkinson?  
3 MR. WILKINSON: Yes.  
4 MS. FRIER: Commissioner Yablonski?  
5 MR. YABLONSKI: No.  
6 MS. FRIER: Chair Bense?  
7 CHAIRMAN BENSE: Yes. And by your vote --  
8 this requires majority vote -- the statutory

9 proposal is approved.

10 MR. RANDY MILLER: Thank you, sir.

11 CHAIRMAN BENSE: Okay. Let's move on to the  
12 next proposal, which would be by Commissioner  
13 Darryl Rouson, Statutory Recommendation Number  
14 0011.

15 MR. ROUSON: Good morning, Chairman Bense and  
16 my fellow commissioners. I have to say that I am  
17 very honored to be able to stand in front of you  
18 and talk about this proposal. The fact of the  
19 matter is I have, through the sum total of my  
20 collective experience, lived all of my life for  
21 this moment, and I don't think you want to  
22 disappoint me. Therefore, I will keep it  
23 basically brief.

24 I want to acknowledge the assistance of  
25 Hugh McMillan and Allison DeFoor, who are

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1 present here today, in helping me with this  
2 proposal. But the idea is, through SR19, to  
3 pass on a recommendation with the full support  
4 of this commission that will expand existing  
5 faith-based beds in our state prisons,

6 requiring the DOC evaluate the benefits and  
7 replicate where feasible the expansion of these  
8 faith-based beds.

9 It has three basic purposes behind it.  
10 The first is a public safety mission in that it  
11 protects the citizens. If we are able while we  
12 are warehousing and babysitting inmates, in a  
13 sense, if we are able to reach their hearts and  
14 their souls and their minds, then, certainly,  
15 it protects the citizens of this great state  
16 when they reenter.

17 Secondly, it protects the guards. Some of  
18 you may have heard of some of the stories  
19 coming out of Hillsborough County Jail recently  
20 where inmates have been attacked by guards, and  
21 Sheriff G got on the airwaves and said, "Well,  
22 wait a minute. You know, I have 200 incidents  
23 a year where my guards are attacked by inmates,  
24 some of them stabbed and hurt, and it goes both  
25 ways." And I think with this type of proposal,

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1 what we are trying to create, it would also  
2 protect the safety of guards, of correction

3 officers.

4           Thirdly, it enhances personal  
5 responsibility, and that's what we all should  
6 be about, some personal accountability and some  
7 personal responsibility for changing our lives  
8 when we have done some things in violation of  
9 law.

10           And lastly, I believe, and I think the  
11 staff agrees with me through their analysis,  
12 that this has a positive budget impact. It  
13 reduces recidivism; reduces the cost; and,  
14 hopefully, will reduce the need to build more  
15 prisons; and it also utilizes volunteers from  
16 faith communities to come into the prisons and  
17 help to administer this program.

18           I had a great meeting yesterday with  
19 Secretary McNeil of Department of Corrections,  
20 and he supports this concept entirely. He  
21 expressed a couple of concerns about a bill  
22 that Senator Webster is putting forth and to  
23 the extent that this might mandate a  
24 site-specific faith-based prison. He has some  
25 concerns about that. He also has some concerns

1       about the Department's ability to meet the  
2       number of beds that might be requested and  
3       might be required by this proposal.

4             But having said that, he does not object  
5       to this statutory recommendation moving forward  
6       and passing it on to the Legislature where it  
7       will most likely be matched and meshed and  
8       mashed, if you will, with some other  
9       legislation that's currently making its way.

10            So I ask you today to pass this measure.  
11       It's an attempt to start small and expand as  
12       the system allows, but it will create a greater  
13       opportunity for inmates to experience faith,  
14       the application of faith, in terms of their  
15       reentry into society.

16            I think that when Secretary McNeil and I  
17       talked yesterday, we agreed on one thing: That  
18       the whole nature of prisons have changed. We  
19       have done away with a lot of rehabilitative  
20       programs that we used to have in prisons as a  
21       part of moving more towards punishment. We may  
22       never reach a day in my lifetime or yours where

23 we return to that kind of system because of  
24 costs and because of other things. But  
25 certainly, this is an attempt that won't cost

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1 us a lot to really enhance a rehabilitative  
2 process, and so I will rest on those remarks.

3 I asked Mr. DeFoor if he wanted to make  
4 some comments. He said he is perfectly willing  
5 to remain silent. But he has spoken with many  
6 of you before. He's appeared before us before,  
7 and I believe you know some of the positions.  
8 But if there are some specific questions, he's  
9 available for that. Thank you.

10 CHAIRMAN BENSE: Okay. Commissioner Rouson,  
11 thank you for your presentation.

12 Do we have any amendments on this proposal  
13 floating around?

14 Okay. Why don't we go to the question  
15 phase, and I think Mr. DeFoor has changed his  
16 mind and he wants to speak. We will recognize  
17 him to speak. After questions. How about  
18 after questions, then you can -- we'll do  
19 questions. Are there questions of the sponsor

20 of the proposal?

21 Okay. Seeing none, Mr. DeFoor, Allison  
22 DeFoor, you are recognized to speak on the  
23 proposal. State your name and address. And  
24 welcome.

25 MR. DUFOR: Allison DeFoor, 200 West College

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1 Avenue, Tallahassee, Florida. I know most of you,  
2 and most of you know me well enough to know I am  
3 not wearing socks, so I don't need to give too  
4 much of an introduction.

5 As you know, I have been about everything  
6 in the justice system you can be except a  
7 prisoner and a probation officer, so I have  
8 seen this beast from about every angle you can  
9 see it. This is a dramatically different  
10 attempt by the system to look at a whole  
11 different way of doing business.

12 I have watched every way this system can  
13 fail, that it can fail. I've been a county  
14 judge, a circuit judge, a public defender, a  
15 prosecutor, a sheriff in my county, member of  
16 the bar -- Florida governors of the bar. I

17       taught criminal justice and law. I've got a  
18       master's in criminology as well as a law  
19       degree. I really do know this beast. And we  
20       are failing, and we are failing dramatically,  
21       and we are failing extensively.

22             What this is is an attempt -- and it's not  
23       just faith-based. It's much more, frankly,  
24       character-based than it is faith-based. It is  
25       trying to shift from a very negative model that

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1       does not work to a positive model that  
2       apparently does work, and I can demonstrate  
3       both, frankly.

4             The faith element is important. It's  
5       important to me because that's the element that  
6       I work in, but that is a model, or a portion of  
7       it, that doesn't involve any state money. All  
8       of the faith portion involves people like me.

9             I am in the Episcopal church, believe it  
10       or not, and we go in every Sunday and we have a  
11       mass. That doesn't cost you folks a nickel of  
12       state money. We go in on our own dime and do  
13       that.



14           The portions that involve character are  
15           run all during the week and involve things like  
16           anger management, teaching these folks how to  
17           deal with their checkbooks, teaching folks how  
18           to deal with life skills, which they just  
19           simply don't have, which is part of how they  
20           end up there in the first place.

21           The results are dramatically different.  
22           The overall system produces a failure rate, a  
23           recidivism rate as it's called in the system,  
24           of 33 percent over three years from the time  
25           they are released until three years later.

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1           Over 50 percent if you go out five years.

2           I think that there's a guide. I know what  
3           those numbers cost. I can prove that. Those  
4           numbers -- Florida will release 12,000  
5           prisoners this year. If we get 33 percent of  
6           them back in three years. That's 4,000  
7           prisoners. That is two 2,000-person-bed  
8           prisons. That will cost \$100 million each to  
9           build and will cost \$30 million each to  
10          operate, forever, because we never close a

11 prison once we have opened them. Forever.

12 That's why it's before the Tax and Budget  
13 Reform Commission. This is real money. We  
14 cannot continue on the system that we are on.

15 This alternative more positive model has  
16 produced very dramatically different numbers.  
17 When I say "dramatically different," I mean the  
18 difference between 33 percent failure rate over  
19 three years versus 7 percent for the faith- and  
20 character-based prisons. Some of that is  
21 self-selected, but they have been able to tease  
22 out statistically the -- they can compare  
23 apples to apples is, I guess, the best and  
24 easiest way to explain it statistically. So  
25 when you tease out the factors that would

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1 involve self-selection, you still -- that's  
2 single-digit recidivism rates versus  
3 33 percent.

4 It's a pretty simple choice, but it is --  
5 it says everything about the system that we are  
6 in right now that you would even have to have a  
7 discussion about 7 percent versus 33 percent.

8 This is absurd. We are on a failing system.

9 We have got to get off of it.

10 CHAIRMAN BENSE: Thank you, Mr. DeFoor.

11 Are there are questions of the presenter?

12 Okay. We are in debate phase on

13 Commissioner Rouson's bill. I want you to stay

14 up there, Commissioner. Any debate? Any

15 debate on this proposal? Is there any debate?

16 Seeing none, I don't think I would close.

17 I think you are looking pretty good right now

18 Commissioner Rouson, having waived his closing,

19 Nancy, please call the roll.

20 MS. FRIER: Commissioner Barney Barnett?

21 MR. BARNETT: Yes.

22 MS. FRIER: Commissioner Martha Barnett?

23 MS. BARNETT: Yes.

24 MS. FRIER: Commissioner D'Alemberte?

25 MR. D'ALEMBERTE: Yes.

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1 MS. FRIER: Commissioner Hogan?

2 MR. HOGAN: Yes.

3 MS. FRIER: Commissioner Kyle?

4 JUDGE KYLE: Yes.

5 MS. FRIER: Commissioner Levesque?  
6 MS. LEVESQUE: Yes.  
7 MS. FRIER: Commissioner Mathis?  
8 MS. MATHIS: Yes.  
9 MS. FRIER: Commissioner McKay?  
10 MR. McKAY: Yes.  
11 MS. FRIER: Commissioner McKee.  
12 MR. McKEE: Yes.  
13 MS. FRIER: Commissioner Les Miller?  
14 MR. LES MILLER: Yes.  
15 MS. FRIER: Commissioner Randy Miller?  
16 MR. RANDY MILLER: Yes.  
17 MS. FRIER: Commissioner Moore?  
18 MR. MOORE: Yes.  
19 MS. FRIER: Commissioner Riley?  
20 MS. RILEY: Yes.  
21 MS. FRIER: Commissioner Rouson?  
22 MR. ROUSON: Yes.  
23 MS. FRIER: Commissioner Turbeville?  
24 MR. TURBEVILLE: Yes.  
25 MS. FRIER: Commissioner Wilkinson?

1 MR. WILKINSON: Yes.

2 MS. FRIER: Commissioner Yablonski?

3 MR. YABLONSKI: Yes.

4 MS. FRIER: Chair Bense?

5 CHAIRMAN BENSE: Yes.

6 And by your vote, the proposal passes.

7 MR. ROUSON: Thank you very much,  
8 Commissioners.

9 CHAIRMAN BENSE: Congratulations.

10 Next up, folks, let's talk about meeting  
11 dates. As you can see on the agenda, we are  
12 looking at a March 6 Planning and Budgetary  
13 Process committee meeting.

14 We are hoping, by the way, by March 6 to  
15 have all of our bills through all of the  
16 committees. That's our goal. That's pretty  
17 close by. So then we really get into the work  
18 of the commission. Full TBRC meetings on the  
19 7th, the 17th, the 26th, the 4th, and the 2nd  
20 of May. These are tentative, but if you can  
21 put them on your calendar as soon as possible.  
22 We'll be meeting, I think, in the DOT building  
23 because session will be going on here so  
24 that's -- Recognize Commissioner Miller.

25 MR. LES MILLER: Could you repeat those

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1 dates?

2 CHAIRMAN BENSE: Oh, I'm so sorry.

3 March 6th, Planning and Budgetary Processes

4 Committee.

5 March 7th, full TBRC commission meeting.

6 March 17th, full TBRC commission meeting.

7 March 26th, full TBRC commission meeting.

8 April 4th, full TBRC commission meeting.

9 May 2nd, full TBRC commission meeting.

10 Also, on March 6th, a possible

11 Governmental Procedures and Structures

12 Committee meeting.

13 And we've got a couple more dates that we

14 have in reserve in case a late proposal is

15 filed or something like that. And what I would

16 like to do is put these -- put the agendas out

17 as far ahead of time as possible so that

18 interested parties who want to come and testify

19 and so on can attend the meeting and have

20 plenty of advanced notice.

21 So we'll begin working as these bills --

22 as these proposals clear their committees, we  
23 will do the best we can. Executive director  
24 Susan Skelton will do the best she can, and  
25 Mr. Goodlette, of giving advance notice a

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1 couple of weeks, hopefully, of what issues will  
2 come up on budget.

3 Are there questions? Anything for the  
4 good of the order?

5 Members, thank you for attending. I know  
6 we've -- Susan tells me are up to 115, 120  
7 meetings already, either in committee or as a  
8 full commission, and we are getting into the  
9 meat of the matters and issues right now. I  
10 appreciate -- yesterday, at the F and T  
11 committee meeting, all 11 committee members  
12 attended, and we're getting down to the short  
13 rows as we say in the Panhandle. So thank you  
14 for attending, and Commissioner Moore moves we  
15 rise.

16 (The proceedings concluded at 10:09 AM)

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# CERTIFICATE OF REPORTER

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6 STATE OF FLORIDA )

7 COUNTY OF LEON )

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9

I, LISA D. FREEZE, Notary Public, certify

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that I was authorized to and did stenographically

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report the proceedings herein, and that the transcript

12

is a true and complete record of my stenographic notes.

13

I further certify that I am not a relative,

14

employee, attorney or counsel of any of the parties,

15

nor am I a relative or employee of any of the parties'



16 attorney or counsel connected with the action, nor am I  
17 financially interested in the action.

18 WITNESS my hand and official seal this 26th  
19 day of February, 2008.

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\_\_\_\_\_  
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