

FLORIDA TAXATION AND BUDGET REFORM COMMISSION

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IN RE: Committee Meeting

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Tallahassee, FL

REPORTED BY: LISA D. FREEZE, RPR  
Notary Public

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## MEMBERS OF THE COMMITTEE:

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Daniel Gelber  
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James "Jim" A. Scott  
Susan Story  
William Gregory "Greg" Turbeville  
Kenneth "Ken" Wilkinson  
Brian Yablonski

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

\* \* \*

CHAIRMAN BENSE: Okay. Members, take your seats and we'll get started again. Members, please take your seats. Please take your seats.

Okay, members, we have a quorum. And if everyone can take their seats in the audience. Be sure to cut your telephones off and things like that. We left off with a passage of committee substitute for Constitutional Proposal 0002.

Next up is the committee substitute for Constitutional Proposal 0050 by the F and T Committee, and Commissioner Levesque, you're recognized, Commissioner Levesque.

MS. LEVESQUE: Mr. Chairman, I would just move to temporarily postpone this proposal.

CHAIRMAN BENSE: Without objection, show the proposal postponed.

Next we have committee substitute for Constitutional Proposal 0021 by the F and T Committee, the Governmental Procedures and Structure Committee, and Commissioner Lacasa. Commissioner Lacasa, you're recognized on your proposal.

1 MR. LACASA: Thank you, Mr. Chairman. It  
2 would be my intention to move to temporarily pass.  
3 Before I do, I beg your indulgence to make a few  
4 statements.

5 CHAIRMAN BENSE: You're recognized.

6 MR. LACASA: Thank you, Mr. Chairman. First  
7 of all, I'd like to tell the members a little bit  
8 about CP21, what survived out of CP21 in CP2, and  
9 what remains on the table for your consideration  
10 before the end of our term in May.

11 The 5 percent cap in CP21 happily made it  
12 into CP2, as well as the concept of a soft  
13 landing for the school system, which was  
14 brilliantly done in CP2.

15 What left is -- what is left is the  
16 concept of a superexemption for all residential  
17 property in Florida, an exemption that would  
18 benefit greatly new homeowners and nonhomestead  
19 homeowners.

20 Before I move to temporarily pass that  
21 measure, I want to thank certain folks, in case  
22 I don't get the opportunity to do it in the  
23 future, for helping me craft CP21. I  
24 specifically want to recognize the  
25 contributions of Speaker Marco Rubio,

1 Representative Adam Hasner, senior House staff  
2 Dawn Langston, Jose Diez-Arguelles, Donna  
3 Ardwin, who acted as a consultant to the House  
4 on this issue and many other issues, and the  
5 folks at Florida TaxWatch, who were always  
6 willing and happy to contribute their vast  
7 knowledge to the development of this  
8 legislation.

9 With that, Mr. Speaker, I would move to  
10 temporarily pass CP21 in order to allow folks  
11 who are still interested in the concept of a  
12 superexemption to test how to reconcile CP2 and  
13 21 as we go forward.

14 CHAIRMAN BENSE: Thank you, Commissioner  
15 Lacasa. And Commissioner McKay, I think you  
16 inadvertently left something out of your closing  
17 earlier. You're recognized.

18 MR. MCKAY: I did, Mr. Chairman, and I thank  
19 you for giving me the opportunity to rectify that.  
20 So many have been involved in this and I forgot to  
21 thank you for your efforts in shepherding, and I  
22 think that's really appropriate. I did thank the  
23 staff. I neglected -- in case they're watching --  
24 my business associates back in Bradenton, because  
25 they've put up with a lot.

1           Most of all, I would like to thank my wife  
2           for putting up with this for six or eight years  
3           too.

4           CHAIRMAN BENSE: Duly noted. She's a patient  
5           person.

6           Okay. There were some people who want to  
7           speak on Constitutional Proposal No. 21, which  
8           was just temporarily postponed. Is there  
9           anyone that would like to speak on that? I  
10          think we have Mr. McConnell. Do you want to  
11          speak? You waive. Trey Price.

12          MR. PRICE: Just very briefly.

13          CHAIRMAN BENSE: Sure. You're certainly  
14          recognized. Welcome.

15          MR. PRICE: Thank you, Mr. Chairman and  
16          members. Am I on now?

17          Trey Price representing the Florida  
18          Association of Realtors. I just want to  
19          briefly point out that, as part of this  
20          proposal, CP021, one of the most important  
21          things that you-all can do is provide a  
22          percentage exemption on the homestead and on  
23          nonhomesteaded property, which is a very  
24          important piece of Commissioner Lacasa's  
25          proposal.

1           And we would suggest that, at this point,  
2           it may compete with CP02, but I understand  
3           you're going to temporarily postpone and we're  
4           going to go back to work on it.

5           We just want to strongly urge the members  
6           to consider a percentage exemption because of  
7           the constitutional possibilities that have  
8           risen forward because of Amendment One and the  
9           portability.

10          Everybody needs some kind of exemption,  
11          first-time home buyers and recent home buyers,  
12          and we think that this percentage exemption as  
13          part of this is the best way to go, and  
14          certainly urge your support on that. And look  
15          forward to working with Commissioner Lacasa to  
16          recraft the proposal. Thank you.

17          CHAIRMAN BENSE: Thank you, Mr. Price. Don  
18          Schroder, do you still wish to speak?

19          MR. SCHRODER: Mr. Chairman, I'll waive.  
20          Thank you.

21          CHAIRMAN BENSE: Okay. And Ashoke Sawe,  
22          S-A-W-E.

23          MR. SAWE: Thank you again. I just wanted to  
24          basically agree with what the previous people  
25          said, and -- with one addition, which is that this

1 is the only proposal that tries to address the  
2 inequity that exists and has existed for a long  
3 time between homesteaded properties and  
4 nonhomesteaded properties. So I think it is  
5 important that you pursue this effort.

6 And I would also like to add that if you  
7 do go forward with this proposal that you  
8 should also -- that you would also include  
9 commercial properties for the additional  
10 exemption. Thank you.

11 CHAIRMAN BENSE: Thank you. Thank you. Kurt  
12 Wenner, TaxWatch. You're recognized. Welcome  
13 back, Mr. Wenner.

14 MR. WENNER: Thank you. I'll try to be real  
15 quick too. I just want to stress that I hope that  
16 you guys do not give up on CP21. I think it would  
17 work great, even in conjunction with 2.

18 If you extend the -- that idea of a  
19 standard exemption to commercial property,  
20 you're going to end up with a situation where  
21 everybody is capped and everybody has a minimum  
22 savings -- everybody, commercial, nonhomestead  
23 residential, homestead residential, new  
24 construction, people that move, everybody is  
25 going to get this.



1           And I know that some people are confused  
2           by Commissioner Lacasa's proposal, but it's  
3           really quite simple. What it wants to do is  
4           cap -- give everybody Save Our Home protection  
5           and give everybody a minimum savings under Save  
6           Our Homes savings.

7           And so that addresses a lot of the  
8           problems that Save Our Homes had. It won't  
9           create it with commercial when you add that.  
10          And we think this is the best way to really  
11          reform the system and get everybody back to  
12          where they're generally treated the same.

13          You can take out the sales tax proponent  
14          of Commissioner Lacasa's proposal, because now  
15          if 2 passes RLE's off the table.

16          So we think it -- please keep it alive and  
17          we think it would be a real true reform for the  
18          system.

19          CHAIRMAN BENSE: Thank you, Mr. Wenner.  
20          Anyone else in the audience on No. 21?

21                 (No response.)

22          Okay. Let's move on to the committee  
23          substitute for Constitutional Proposal No.  
24          0006/0008/0034 by the F and T Committee and  
25          Commissioners Wilkinson, Scott, Lacasa. I

1 think, Commissioner Wilkinson, I think you are  
2 going to present this?

3 MR. WILKINSON: Is it my time in the barrel?

4 CHAIRMAN BENSE: It's your turn. You're  
5 recognized to present your proposal.

6 MR. WILKINSON: The genesis of this proposal  
7 really began with the controversy over one of the  
8 eight criteria property appraisers are required to  
9 use in valuing properties for ad valorem tax  
10 purposes. It's called the first and eighth  
11 criteria contained in FS 193.011, one of which is  
12 entitled Highest and Best Use.

13 There's some discretion by property  
14 appraisers as to when highest and best use is  
15 appropriate to arrive at our constitutional  
16 mandate of market value, hence the controversy.  
17 Property appraisers want direction on this  
18 issue, as most feel this has produced an undue  
19 tax burden on some taxpayers, which in our  
20 analysis, what we've looked at, is  
21 predominantly what we're terming working  
22 waterfront.

23 By creating a special use category in our  
24 constitution, we will have, in our opinion,  
25 solved this problem. I understand there's a

1 number of amendments, and I would ask, with  
2 Mr. Chairman's permission, that we ask Tom  
3 Cibula, our staff attorney, to get involved in  
4 some of the other ramification -- what has come  
5 about.

6 CHAIRMAN BENSE: Okay. Before we get to  
7 that, our capable staff reminded me that we didn't  
8 formally table the previous No. 0021. Without  
9 objection, show the committee substitute for  
10 Constitutional Proposal 0021 temporarily  
11 postponed. Without objection.

12 Okay. We're back on the new proposal, and  
13 we're moving to the amendatory process, I  
14 believe -- which sheet am I on here? Okay.  
15 We're going to move to the amendatory process.  
16 Then we will recognize speakers.

17 So let's go to Amendment No. 1 by  
18 Commissioner Wilkinson. I think Mr. Cibula  
19 might be explaining that one for you, or are  
20 you going to do it, Commissioner Wilkinson?

21 MR. WILKINSON: That's fine.

22 CHAIRMAN BENSE: Either one. You guys can --  
23 you can tag team, but you're recognized.

24 MR. CIBULA: Yes. Amendment No. 1 removes  
25 subparagraph B on lines 174 through 178 of the

1 bill.

2 And we had received some calls from the  
3 Legislature's Office of Economic and  
4 Demographic Research, and they suggested that  
5 this language might be extremely overbroad,  
6 perhaps applied to power plants and ports, and  
7 they suggested that that language be removed.  
8 And that language is removed in Commissioner  
9 Wilkinson's Amendment No. 1.

10 CHAIRMAN BENSE: Okay. Are there questions  
11 of the sponsor of the amendment? Are there  
12 questions of the sponsor of the amendment?  
13 Commissioner Lacasa, you are recognized.

14 MR. LACASA: Thank you, Mr. Chairman.  
15 Mr. Cibula, I really -- could you please go over  
16 that one more time for me?

17 MR. CIBULA: Yes. The bill, lines 174  
18 through 178, we heard from some legislative staff  
19 that the language as drafted was very broad and  
20 would have a very, very large revenue impact. And  
21 they suggested that that language might provide a  
22 special tax benefit for utility companies and port  
23 facilities, seaports.

24 And we brought it to the attention of  
25 Commissioner Wilkinson, and Commissioner

1       Wilkinson filed the amendment.

2               MR. LACASA: Further question? Follow-up?

3               CHAIRMAN BENSE: Okay. Commissioner Lacasa,  
4       you're recognized for a question.

5               MR. LACASA: If we eliminate this language --  
6       all right. Never mind. Never mind. I understand  
7       it now. Thank you. Thank you.

8               CHAIRMAN BENSE: Commissioner Scott, you're  
9       recognized for a question.

10              VICE CHAIR SCOTT: I guess this would be for  
11       Tom. My question is on the amendment, the part D,  
12       where it says -- I'm wondering why -- that used to  
13       be part E, why we changed or why we would be  
14       taking out marine vessel construction and repair,  
15       because we -- no?

16              MR. CIBULA: We're not taking out marine.

17              VICE CHAIR SCOTT: Oh, so you left D. How  
18       would D read then; could you tell me?

19              MR. CIBULA: D --

20              VICE CHAIR SCOTT: The new D.

21              MR. CIBULA: The new D is the old E. Because  
22       we took out B we had to renumber subsequent  
23       sections, and we did not republish the entire text  
24       of the measure in the amendment. We only  
25       republished the parts that were necessary to

1 republish to move the word "and" from the end of  
2 subparagraph D to the end of subparagraph C.  
3 That's why you see the extra language in there; we  
4 had to move the "and."

5 VICE CHAIR SCOTT: So just so we're clear for  
6 purposes of -- when we get -- the D in this  
7 amendment or in the bill as amended if this passes  
8 would say, Water dependent marine manufacturing  
9 facilities, commercial fishing facilities, and  
10 marine vessel construction and repair facilities  
11 and their support activities?

12 MR. CIBULA: Exactly.

13 VICE CHAIR SCOTT: Thank you.

14 MR. RANDY MILLER: Mr. Chair?

15 CHAIRMAN BENSE: Commissioner Miller, you're  
16 recognized for a question.

17 MR. RANDY MILLER: I guess I'm still confused  
18 as to why we are taking out paragraph B.

19 CHAIRMAN BENSE: Paragraph E?

20 MR. RANDY MILLER: No. Line 174. We are  
21 striking paragraph B. Is that not correct,  
22 Mr. Cibula?

23 MR. CIBULA: Yes, we're pulling out  
24 subparagraph B.

25 MR. RANDY MILLER: And I -- Mr. Chairman, if

1 I might.

2 CHAIRMAN BENSE: You're recognized.

3 MR. RANDY MILLER: Why are we doing that?

4 CHAIRMAN BENSE: Mr. Wilkinson or Mr. Cibula.

5 MR. WILKINSON: I'll try. I'll take a shot  
6 at it. There was a concern with the economics of  
7 this, what the impacts would be, it would open up  
8 to like seaports and paper mills, et cetera.

9 MR. RANDY MILLER: Mr. Chairman?

10 CHAIRMAN BENSE: Commissioner Miller, you're  
11 recognized for a question.

12 MR. RANDY MILLER: Wasn't this language put  
13 in in the F and T Committee?

14 MR. WILKINSON: I don't recall. Tom?

15 MR. CIBULA: This language was original to  
16 measures 8 and 34. It was revised and clarified  
17 in F and T, but the language was original to 8 and  
18 34.

19 MR. WILKINSON: So we actually combined three  
20 bills into one, if that helps.

21 CHAIRMAN BENSE: Commissioner Miller,  
22 follow-up question? Yes, sir. Thank you. You're  
23 recognized.

24 MR. RANDY MILLER: But it was our -- we have  
25 people that came before our committee and

1 testified on this very issue; is that not correct?

2 MR. WILKINSON: I don't remember much  
3 testimony coming on that issue, no.

4 MR. RANDY MILLER: Well, I think that the  
5 prevailing winds out there is that the folks that  
6 are interested in this particular proposal like  
7 the way it is, so maybe, Mr. Chairman, we'll have  
8 some of them --

9 CHAIRMAN BENSE: Absolutely. When we get to  
10 the question phase, we will go to public  
11 testimony.

12 Commissioner Story, you're recognized.

13 MS. STORY: Along those same lines,  
14 Commissioner Wilkinson, I know that you said  
15 there's a concern that there are some economic  
16 impacts due to a few industries. Are we, by  
17 taking that out, then basically saying we don't  
18 think that our original thought, that we ought to  
19 benefit some industries, should stay in there. I  
20 mean, I guess we're just taking everything out  
21 instead of saying that there may be some  
22 exceptions. I'm just confused about that.

23 MR. WILKINSON: My original thought in doing  
24 the proposal was that we have some situations in  
25 Florida along our coastlines that -- usually in



1 situations where you have small businesses  
2 dependent on the water, could be marinas, dry  
3 stocks, et cetera, that some interpret the highest  
4 and best use to allow that county to value that  
5 property based as if it was a condominium. That's  
6 what we were trying to protect, the true small  
7 business, working waterfront, not create something  
8 that a South Beach could be exempted or something  
9 like that.

10 CHAIRMAN BENSE: Further questions?  
11 Commissioner Scott, you're recognized for a  
12 question.

13 VICE CHAIR SCOTT: As one of the sponsors,  
14 there were two or three proposals that were  
15 similar, and I think I agree with what he said,  
16 that the basic intent was for marine  
17 industry-related, and not to pick up whatever  
18 plants that might use water in processing their,  
19 you know, because, the net effect of that was  
20 different.

21 And there was no testimony about it.  
22 Frankly, this had been worked in the  
23 Legislature so they had a draft and it just  
24 sort of went through, and now these issues have  
25 been raised as to whether it's so broad that it

1 would pick up anything from pulp mill to I  
2 don't know what all that might use water, even  
3 though that they're not marine-related, so ...

4 CHAIRMAN BENISE: I have a question -- two  
5 questions. Number one, Commissioner, what is  
6 the -- this clearly has a separate physical  
7 impact. Has that been quantified?

8 MR. WILKINSON: Not to the extent that --  
9 dollar for dollar, looking at the tax roll. In  
10 fact, I have a -- what's the gentleman that we've  
11 used for the Commission? Tony Villamil.

12 We have reviewed the staff analysis and  
13 economic impact statement for CSCP06, 08, and  
14 34 from an economic perspective. We agree with  
15 the statements of section B, economic impact,  
16 fiscal note of the staff analysis, which is,  
17 the proposed constitutional amendment's  
18 economic impact cannot be quantified at this  
19 time. That's to answer the question. There  
20 are no estimates of fiscal revenue impacts due  
21 to the ability of municipalities to change the  
22 millage rate for compensating fiscal revenue  
23 losses that could result.

24 It is also impossible to quantify the  
25 likely retention and expansion of waterfront

1 business as defined in proposal amendment.

2 The amendment can be more properly  
3 classified as targeted property tax relief to  
4 specific ownership group rather than  
5 fundamental tax reform. Hence the definition  
6 between relief and reform. We're creating a  
7 special use property.

8 It's our perception and our belief, having  
9 to deal with this for the last few years, that  
10 there is a problem with the highest and best  
11 use, but it's isolated to the waterfront on  
12 those small businesses that really have to be  
13 there, they can't be anywhere else. And  
14 they're getting penalized in many opinions --  
15 various opinions of the appraiser, but we think  
16 this will solve the problem and take that  
17 discretion away.

18 MR. RANDY MILLER: Mr. Chair?

19 CHAIRMAN BENSE: Before we get there,  
20 Commissioner Miller. I would -- I would like to  
21 know those numbers. I would like -- before I go  
22 to this particular amendment. If we're going from  
23 a loss of revenue to county coffers of \$6 billion  
24 down to 2 billion with this, that's significant.

25 And this is a constitutional proposal we

1 have here. And that's -- to not be able to  
2 quantify that number distresses me some. I  
3 just want to -- I don't have any more  
4 questions. I guess I'm in debate, which I  
5 shouldn't be doing, but I just -- I would feel  
6 much more comfortable if I knew those numbers.

7 Commissioner Miller, you're recognized.

8 MR. RANDY MILLER: Mr. Chair, just for  
9 clarification, and Commissioner Wilkinson. So the  
10 way I'm reading this is that if you have a plant  
11 that is located pretty close or maybe on the site  
12 of a riverbank, that by taking this language out,  
13 you could go in and basically determine the  
14 highest and best use for that property, could be  
15 condominiums; is that not correct?

16 MR. WILKINSON: May I respond?

17 CHAIRMAN BENSE: You're recognized.

18 MR. WILKINSON: I can't imagine any scenario  
19 where somebody's going to build condominiums in  
20 place of a paper plant. I think the cost of just  
21 removing the plant would be -- would never happen.

22 MR. RANDY MILLER: You -- Mr. Chairman, if I  
23 might. You might want to visit the city of Port  
24 St. Joe.

25 (Laughter.)

1 MR. WILKINSON: I'm from Fort Myers.

2 MR. RANDY MILLER: So my point, Mr. Chair, if  
3 I might. I think that if we're talking about  
4 presumption of correctness of all these things and  
5 highest and best use, we need to make sure that  
6 we're not doing something that is disastrous to  
7 all concerned, and give everybody some kind of  
8 protection except the very people that we need to  
9 continue operating on those sites, that they could  
10 be taxed out. And I think that's what we're  
11 hearing. They would not be offered any  
12 protection.

13 Thank you, Mr. Chairman.

14 MR. WILKINSON: Mr. Chair, if I might.

15 CHAIRMAN BENSE: Commissioner Wilkinson.  
16 Commissioner, you're recognized to respond to that  
17 question.

18 MR. WILKINSON: Whenever a chairman of a body  
19 of this importance has questions, I would be more  
20 than amenable to assign our Tony Villamil, who is  
21 our economist I understand on staff, if you'd like  
22 that economic. And -- so I'd be more than happy  
23 to TP it.

24 CHAIRMAN BENSE: Well, I mean, I hate to slow  
25 the freight train down that's going on, and today

1 is property tax day, but I just have some -- I  
2 have some concerns about --

3 MR. WILKINSON: Sir, your concerns are very  
4 important to me.

5 CHAIRMAN BENSE: And even if it were  
6 statutory and had another stop to go, I'd say,  
7 yeah, let's -- this is the last stop. And I just  
8 have some, personally -- I mean, nod to me or  
9 don't nod to me, folks, if you think that maybe we  
10 ought to slow it down. And if it doesn't offend  
11 you --

12 MR. WILKINSON: Not at all.

13 VICE CHAIR SCOTT: Mr. Chairman, as one of  
14 the sponsors, I agree. And this is just really in  
15 the last week come up and -- the issues, and I  
16 think we need to get some more information and we  
17 do have some more meetings of the full Commission.

18 And I think we can get this information  
19 from Legislature -- somebody be able to come up  
20 with it, or our -- on staff, whatever you  
21 think's appropriate, on staff or consultants.

22 But I have some concerns about it too and  
23 about putting it in the constitution -- trying  
24 to put it in the constitution until we know  
25 exactly what we're talking about here.

1 CHAIRMAN BENSE: So, Commissioner, perhaps  
2 you might want to TP your amendment and then  
3 perhaps consider temporarily postponing the bill;  
4 is that --

5 MR. WILKINSON: So done, if you approve.

6 CHAIRMAN BENSE: So, Commissioner  
7 Wilkinson -- well, Commissioner Wilkinson moves  
8 that we temporarily postpone Amendment No. 1 to  
9 his proposal. Are there any objections to that?

10 (No response.)

11 Seeing none --

12 MS. RILEY: Mr. Chairman?

13 CHAIRMAN BENSE: I'm sorry? You're  
14 recognized, Commissioner Riley.

15 MS. RILEY: I would just like to say that, I  
16 hope by TP'ing it we're not going to get rid of  
17 it, because --

18 CHAIRMAN BENSE: No, no.

19 MS. RILEY: We've heard around the state  
20 people want this, and because we're looking at  
21 something broader that may benefit a large  
22 industry or, you know, it was intended for the  
23 people -- the mom and pop places that were on the  
24 waterfront that were being taxed out, so to me  
25 it's very important that we make sure we bring

1       this back.

2               CHAIRMAN BENSE: I frankly feel the same way.  
3       Without objection, show the amendment temporarily  
4       postponed. There's a motion by Commissioner  
5       Wilkinson to temporarily postpone Constitutional  
6       Proposal No. 006/008 and /0034. Is there  
7       objection?

8               (No response.)

9       Seeing none, show that proposal  
10      temporarily postponed.

11              Okay. Which leads me also to another  
12      point, members. As we said earlier, these are  
13      issues now that are going on the ballot, and I  
14      would urge all of you to stay away from  
15      late-filed amendments. I have some concerns  
16      that -- now, I know we did some earlier this  
17      morning, but from here on, let's do our best to  
18      timely file these amendments so that staff can  
19      determine the -- either the fiscal impact or  
20      the substantive impact that these amendments  
21      are going to have.

22              So if we could make an effort to address  
23      these issues. I know sometimes you want to do  
24      a substitute amendment to an amendment or an  
25      amendment to an amendment. I understand that.



1 But let's try to get them out there as soon  
2 as -- as soon as we possibly can.

3 Okay. We are now on Statutory  
4 Recommendation No. 013. It's a statutory  
5 recommendation, 0013 by F and T, and I think  
6 Mr. Cibula is going to explain that one.

7 MR. CIBULA: Statutory Recommendation 13  
8 amends Section 193.014, Florida Statutes, to  
9 revise the eight statutory factors that a property  
10 appraiser must consider when determining the tax  
11 values of a piece of property. The revised  
12 factors require a property appraiser to consider  
13 the legally permissible use of property, zoning  
14 changes, currency requirements, and permits  
15 necessary to achieve the highest and best use of  
16 the property, and physical deterioration and  
17 functional obsolescence of the property.

18 And the measure provides that it will  
19 apply the assessments beginning in 2009. That  
20 is the -- the measure.

21 CHAIRMAN BENSE: Okay. I'm going to  
22 recognize Commissioner Story, since this proposal  
23 came out of her particular committee. Moving on,  
24 let's move to the amendatory phase. Commissioner  
25 Wilkinson, you're recognized on Amendment No. 1.

1 MR. WILKINSON: I've had concerns since the  
2 beginning of this issue relative to having it in  
3 the constitution. Initially, there was also talk  
4 of having legal fees awarded in the constitution.  
5 I think the original proposal was to actually do  
6 that. I'm hopeful this -- think of this as a  
7 legislative bill because it's the Legislature that  
8 should be looking at this issue, and it should not  
9 be in the constitution.

10 CHAIRMAN BENSE: Commissioner --

11 MR. WILKINSON: We've also changed from  
12 presumption to preponderance, if I'm not mistaken.

13 CHAIRMAN BENSE: Okay. Any further -- any --  
14 okay. Commissioner Wilkinson having presented his  
15 amendment, we're in the question phase. Any  
16 questions? Commissioner Barnett, you're  
17 recognized for a question.

18 MS. BARNETT: Let me try to put this in the  
19 form of a question. I agree with Commissioner  
20 Wilkinson about the fact that this issue is more  
21 appropriately a statutory issue than a  
22 constitutional issue. And if you -- maybe the  
23 question to him is, is whether he would look at  
24 Amendment No. 2, which is very similar to his  
25 Amendment No. 1, but is what is currently being

1 discussed in the Legislature today. Amendment  
2 No. 2 reflects what is going on there and whether  
3 he would be willing to accept the substitute  
4 amendment.

5 Our -- there is little, if any, in my  
6 judgment, difference between the substance and  
7 the effect of the two amendments. It's more  
8 format and whether he'd be willing to do that,  
9 so if it's sent to the Legislature it will --  
10 it will mirror what's already being considered.

11 MR. WILKINSON: I have taken a look at that,  
12 and I appreciate that opportunity, and would sort  
13 of ask you a question back if possible. If we  
14 could amend to substitute your amendment No. 2 in  
15 lines 14 and insert with S193011 and  
16 professionally accepted appraisal practices,  
17 including mass appraisal practices, that would --  
18 I don't think that was intentionally omitted. I  
19 think by putting it in it clarifies it.

20 MS. BARNETT: Mr. Chairman?

21 CHAIRMAN BENSE: You're recognized.

22 MS. BARNETT: I personally believe mass  
23 appraisal is an important concept to have  
24 incorporated in either of these two amendments,  
25 and if we substituted Amendment No. 2 then we

1       could then amend Amendment No. 2 with the mass  
2       appraisal, and that would certainly be fine with  
3       me.

4               CHAIRMAN BENSE:  What's your pleasure,  
5       Commissioner Wilkinson?

6               MR. WILKINSON:  I'm fine with that.

7               CHAIRMAN BENSE:  Okay.  Do you want to  
8       temporarily postpone Amendment No. 1?

9               MS. BARNETT:  Mr. Chairman, it may be -- if  
10       you'd recognize me for a motion.

11              CHAIRMAN BENSE:  Yeah.

12              MS. BARNETT:  I would move Amendment No. 2 as  
13       a substitute amendment to Amendment No. 1.

14              CHAIRMAN BENSE:  You're recognized.

15              MS. BARNETT:  Thank you.  Mr. Chairman, I  
16       move that Amendment No. 2 to measure number --  
17       Statutory Resolution 13 be substituted for  
18       Amendment No. 1.

19              CHAIRMAN BENSE:  Okay.  There's a motion on  
20       the floor to take up the substitute amendment to  
21       Amendment 1.  Are there questions of -- I think it  
22       just takes a straight up and down vote.  All in  
23       favor of that motion say aye.

24              (Aye.)

25              Opposed no.

1 (No response.)

2 Motion passes. We're now on substitute  
3 Amendment No. 2. Commissioner Barnett, you're  
4 recognized to explain your amendment.

5 MS. BARNETT: I didn't know I was going to  
6 have to explain it. I thought I was going to let  
7 Commissioner Wilkinson explain it.

8 MR. WILKINSON: You're doing an excellent  
9 job.

10 CHAIRMAN BENSE: I think he's happy to give  
11 you that football.

12 MS. BARNETT: I think that's why he accepted  
13 the amendment.

14 (Laughter.)

15 Thank you. We've heard a lot of  
16 discussion about this. We've had some very --  
17 I think some of the best debate and some of the  
18 best presentations on this issue of any that  
19 we've had during the Commission process. And I  
20 see Mr. Levy and others in the audience and  
21 compliment them on their comments.

22 This whole question -- this deals with the  
23 appraisal of real property and now tangible  
24 personal property, which the constitution  
25 requires to be at just value. And the

1       Legislature has, in giving guidance to property  
2       appraisers in how to determine just value, for  
3       many years have used a number of criteria.

4             And one that has generated a lot of  
5       litigation, it has generated a lot of interest  
6       by citizens' groups, by commissions, and  
7       others, has been this question of the burden of  
8       proof. Who has the burden of proof when a  
9       property owner challenges the assessment. And  
10      today there is a presumption that -- of  
11      correctness with the property appraiser.

12            And what this does is attempt to perhaps  
13      level the playing field. I'm not sure those  
14      are the most correct words to use, but it is an  
15      attempt to deal with this burden of proof,  
16      which many taxpayers believe is -- is weighted  
17      against the property owner and in favor of the  
18      property appraiser, and to set forth a process  
19      in the statute that is -- is outlined in this  
20      amendment and works something like this.

21            It -- it will require that the property  
22      appraiser has the burden initially when a  
23      taxpayer, property owner challenges the  
24      assessment. The property appraiser will have  
25      the burden of proving that the assessment that

1 he or she came up with was arrived using  
2 certain statutory requirements and  
3 professionally accepted appraisal practices.

4 And then when the property appraiser does  
5 that, that assessment is presumed to be  
6 correct. The burden then shifts to the  
7 landowner, the property owner, to come in and  
8 show by a -- and the standard -- some of this I  
9 apologize for is more lawyer language than real  
10 citizen language, but proving by the  
11 preponderance of the evidence that the  
12 appraisal exceeds the just value of the  
13 property. And so that is then the property  
14 owner's requirement.

15 If -- before a value adjustment board, if  
16 the property owner is successful, it all ends  
17 there. But if the property appraiser decides  
18 to challenge the action of the value adjustment  
19 board, this language deals with, again, the  
20 burden of proof in that situation, and it says  
21 that the burden is then on the property  
22 appraiser to prove that the decision of the  
23 value adjustment board is incorrect, and it  
24 sets forth, again, legal standards to use for  
25 that.

1           Later on in the amendment if there is a --  
2           if you actually go to court -- let me see.  
3           This one deals with a denial -- a denial of an  
4           exemption or an assessment based on a  
5           classification. You know, we're dealing with  
6           how we're giving the Legislature the authority  
7           to classify some property for tax purposes and  
8           tax them a little bit differently. Sets forth  
9           standards and the burden of proof for  
10          situations like this.

11          This is an effort to codify case law as  
12          well, and it is an effort, as I said, to look  
13          at the burden of proof, and in the proponent's  
14          eyes, which would be my perception, create a  
15          more level playing field between the property  
16          appraiser and the property owner taxpayer.

17          CHAIRMAN BENSE: Okay. Commissioner Barnett  
18          having presented her amendment, her substitute  
19          amendment, there is an amendment to the substitute  
20          amendment. Let's go ahead and take up the  
21          amendment to the substitute amendment by  
22          Commissioner Wilkinson. Commissioner Wilkinson,  
23          you're recognized. It's not a long amendment, so  
24          let's go ahead and get her bill in the proper  
25          posture.



1 Commissioner Wilkinson, you're recognized.

2 MR. WILKINSON: On amendment No. 3?

3 CHAIRMAN BENSE: Turn your mic on.

4 MR. WILKINSON: That would help. We're  
5 really just adding three words at the very end of  
6 14, which would be, mass appraisal practices.

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

9 (No response.)

10 I would like to ask, tell me what that  
11 means, Commissioner?

12 MR. WILKINSON: Okay. Well, that is a good  
13 point. That is where I do work.

14 In Lee County we have 587,000 properties.  
15 If mass appraisal practices were not addressed  
16 in the statute, it could be interpreted that if  
17 you don't use -- if you use mass appraisal,  
18 you'd be wrong. And there's just no physical  
19 possibility that we could do 587,000 fee  
20 appraisals if that were -- it's a stretch.

21 But nobody -- nobody -- I don't think  
22 anybody has a concern adding that, but it just  
23 reinforces -- I don't know any assessment  
24 jurisdiction in the world that does not use  
25 mass appraisal. It's used in statistics, et

1           cetera.

2           CHAIRMAN BENSE:   Okay.   Any more questions?  
3           Commissioner Miller, you're recognized for a  
4           question.

5           MR. RANDY MILLER:   I would like to basically  
6           ask Commissioner Wilkinson.   Commissioner  
7           Wilkinson, there is no way you could personally  
8           perform your duties as appraiser at Lee County  
9           without using a mass appraisal system; is that  
10          correct?

11          MR. WILKINSON:   Correct.

12          CHAIRMAN BENSE:   Okay.   Any further  
13          questions?

14          (No response.)

15          Is there debate?

16          (No response.)

17          Are there objections to the amendment, to  
18          the substitute amendment?

19          (No response.)

20          Seeing none, the substitute amendment is  
21          amended to include the language in the  
22          substitute amendment.

23          We're back on the substitute amendment.  
24          Commissioner Barnett having explained her  
25          substitute amendment, we have audience

1 participation. Don Schroder from Holmes Beach,  
2 Florida. Mr. Schroder, welcome again.

3 MR. SCHRODER: Thank you very much,  
4 Mr. Chairman. And thank you for this morning. It  
5 was a great day. Hope we can continue the  
6 process.

7 I'm a realtor, as you know. This is very  
8 important. I have been in front of the review  
9 board twice this year already. We had 250 --  
10 250 cases come in. We were like number 14 or  
11 15. We still have not heard from them. They  
12 were using -- they were using programs -- they  
13 were using programs and properties that I knew  
14 personally that had been redone, remodeled, and  
15 against a property that was as vanilla as when  
16 it was built back in 1968.

17 We need -- the preponderance of evidence  
18 needs to go back to the citizen in cases like  
19 this. I'm very much in favor of this.

20 I would also like to -- and, sir, I would  
21 like your direction on this. On the  
22 previous -- on the previous one, you did not  
23 take public comment. This was on the working  
24 waterfronts. And I was wondering if I could  
25 address that at this stage? Is that allowable?

1           CHAIRMAN BENSE: Sure. Absolutely. We  
2           didn't because we TP'd, so --

3           MR. SCHRODER: I know you did, and --

4           CHAIRMAN BENSE: But you're certainly  
5           welcome --

6           MR. SCHRODER: And I'm probably not going to  
7           be able to get up here while you're going to be  
8           discussing it, but I'll be back for some of the  
9           other ones.

10          Some time ago, when working waterfronts  
11          came up, we worked very hard to get hotels and  
12          motels. I live on Anna Maria Island. And  
13          every -- and I was also the past president of  
14          the Anna Maria Island Chamber of Commerce for  
15          three years. And we kept -- once this came  
16          forward, we had many, many areas from  
17          throughout the state, particularly on barrier  
18          islands and so forth, where the mom and pop --  
19          and that's what this is protecting -- hotel and  
20          motels were being purchased. They could no  
21          longer continue because of high taxation,  
22          number one. But number two, because of the  
23          highest and best use.

24          And you are including in your -- in your  
25          working waterfront, you're looking at some

1 special interest groups. I would like the  
2 committee to look at using a -- hotels and  
3 motels and adding them back into that  
4 particular group. So -- that, if you wouldn't  
5 mind, I would appreciate that. And,  
6 Mr. Wilkinson, I think you and I worked on  
7 that. Once before we had spoken about that.

8 But getting back to the property, the just  
9 valuation of property, it is extremely  
10 important in today's economy to be able to move  
11 forward and have this come into fruition. The  
12 system is being -- is broken the way it is  
13 being currently used, and the citizen really  
14 has no justification, has no ability to be able  
15 to present their -- they have the ability to be  
16 able to present their case but it falls upon  
17 deaf ears.

18 And I think what you're trying to do here  
19 is certainly the right -- the first step  
20 forward towards correcting that inequity.

21 Thank you very much.

22 CHAIRMAN BENSE: Thank you, Mr. Schroder.  
23 Appreciate your coming all the way up here.

24 MR. SCHRODER: Thank you.

25 CHAIRMAN BENSE: Trey Price from the Florida

1 Association of Realtors. You're recognized.

2 Welcome again.

3 MR. PRICE: Thank you, Mr. Chairman. I want  
4 to speak in favor of this statutory proposal. And  
5 as I understand it, the next proposal, CP042, is  
6 not likely to be taken up today.

7 Just for your consideration, we would ask  
8 that you would hold CP042. There is  
9 legislation currently going through the Florida  
10 Legislature that addresses these issues, but,  
11 again, they don't always make it, for some --  
12 for one reason or another, as most of you know  
13 as former legislators. And this is a very  
14 important issue, as well as the one earlier.  
15 But this is extremely important.

16 Dealing with the preponderance of  
17 evidence, we need balance to put back towards  
18 our taxpayers and hope you'll consider it.  
19 Thank you very much.

20 CHAIRMAN BENSE: Thank you, Mr. Price.

21 Anyone else from the audience would like  
22 to participate?

23 Come on up, sir. State your name and  
24 address and welcome to the Commission.

25 MR. MILLER: Well, thank you. I appreciate

1       that. And I --

2           CHAIRMAN BENSE: Fill out one of those little  
3       cards too.

4           MR. MILLER: Okay, I will do that. Marvin  
5       Miller from Ormond Beach, Florida. And I don't  
6       know if anybody here -- I'll be brief. I guess  
7       that's the by word today. Everybody says I'll be  
8       brief. I'll try to be brief.

9           CHAIRMAN BENSE: Take your time.

10          MR. MILLER: Has anybody here been before the  
11       value adjustment board sitting up here? I  
12       don't -- you know what? I've been there -- I'm a  
13       loser there, a three-time loser, so I'm in trouble  
14       already.

15               (Laughter.)

16          MS. RILEY: You're in good company.

17          MR. MILLER: I hope to change the trend. The  
18       presumption of correctness. When you go before  
19       the value adjustment board, as I -- the last time  
20       I appeared before there, you walk in and you face  
21       the master, who's the head of the proceeding, and  
22       the appraiser. And they are together when you  
23       come into the room. And you give your testimony.  
24       And when you leave, they're together.

25          Now, that bothered me and I brought that

1 up last time. I don't know if they have any  
2 conversation or what happens between them or  
3 what they discuss. But every time we  
4 presented, we've been denied. And the -- when  
5 I brought up here, I got a kind of visual. I  
6 want to pass it up to you. I didn't realize  
7 there would be 25 here today. I have five.  
8 That's one for every five of you, so please  
9 pass it around.

10 This -- the visual will tell you a lot  
11 more, and it'll show you what we presented to a  
12 board. And you make a decision right here.  
13 You can make a decision to see if this was --  
14 who should be in favor of the decision. Thank  
15 you.

16 On the front page is just a description of  
17 what we presented. This is what we told the  
18 VAB board, the value adjustment board. Very  
19 simple. My son and I appeared before them.

20 And what we did, upon their request, we  
21 brought pictures. Each one is a before and  
22 after picture. I think they'll be pretty  
23 descriptive. This was actually presented  
24 before them, not once but twice. I'm talking  
25 about two years. There are five pages of



1 pictures of before and after.

2 These products were rehabbed for sale.  
3 And what we had was products that we have for  
4 rent, and we keep them maintained for a basic  
5 rental. And as you proceed to sell them, we  
6 rehab them. And I think that's the word you've  
7 heard around the state. But it's comes to  
8 the -- with the property values rising so fast  
9 and the taxes going right by it, it forced us  
10 to start selling them, so we had to rehab them.

11 And what I also brought to you to look  
12 over today is from the property appraiser's  
13 office in Volusia County. And the appraisal, I  
14 have two appraisals here from the property  
15 appraiser's office which show the just value  
16 and the taxable value. Now, these being  
17 nonhomesteaded, so the just value is what they  
18 are.

19 And you'll see that the before product, as  
20 you look it over, that property, the just value  
21 was \$186,000. By the millage rate it came up  
22 with a 3500-dollar tax bill that year, which  
23 was last year.

24 The after property -- now, these are exact  
25 properties. They're in the same subdivision.

1       It's not -- comparables make it very easy to do  
2       an appraisal on them. The after photos, after  
3       improvements, the just value was actually less  
4       than that property. It was 176,000. So the  
5       appraisals are totally wrong, and the master  
6       actually ordered the appraisers to go back and  
7       look at these properties because they -- to see  
8       the inside of them, which were improved.

9               They came back -- after looking at the  
10       pictures you see today, they came back and  
11       denied us.

12              CHAIRMAN BENSE: Mr. Miller, if you could  
13       wrap it up in a couple minutes?

14              MR. MILLER: Yeah, I'm at the end. I said  
15       I'll be brief.

16              CHAIRMAN BENSE: That's okay.

17              MR. MILLER: Just to bring to your attention,  
18       just one more thing to show how skewed the  
19       property tax system is and how bad is the  
20       disparity. We should have parity, not disparity.

21              The last one -- the last appraisal shows a  
22       homesteaded property in the same subdivision,  
23       the same property. It had a just value of  
24       214,000, but the tax value was only from  
25       47,000. Their tax bill was \$900. Ours were 35

1 and \$3700. And that's before Amendment 1. So  
2 if Amendment 1 gives them another 25,000-dollar  
3 exemption, or whatever percentage it'll be,  
4 it'll probably reduce that tax bill down to  
5 \$600 for that property tax, which is 75 percent  
6 discount.

7 I rest my case.

8 CHAIRMAN BENSE: Thank you, Mr. Miller. Good  
9 job.

10 Okay. Let's see. We are on the  
11 substitute amendment as amended. We had public  
12 testimony. Are there questions of the sponsor  
13 of the substitute amendment as amended? No  
14 questions?

15 MS. RILEY: Yes.

16 CHAIRMAN BENSE: Sorry, Commissioner Riley,  
17 you're recognized.

18 MS. RILEY: I'm just trying to get the  
19 difference straight on this, and there is a lot of  
20 legalese, Commissioner Barnett. But it looks like  
21 on the original amendment that the burden of proof  
22 was put on the appraiser first. And in your  
23 amendment, it looks like the burden of proof is  
24 put on the homeowner. Am I incorrect in that?

25 CHAIRMAN BENSE: Commissioner Barnett, you're

1 recognized to answer the question.

2 MS. BARNETT: The burden of proof in the  
3 proposal is -- the property appraiser's initial  
4 burden of proof in this proposal is to show that  
5 the assessment was done in accordance with  
6 generally accepted appraisal standards, and that  
7 the language I think says -- and that it complied  
8 with 193.011, which were the statutory  
9 requirements for appraising property. And once  
10 the property appraiser does that, his or her  
11 appraisal is presumed to be correct. But that's  
12 the initial burden.

13 Then the -- the property owner has a  
14 burden of coming in and challenging --  
15 challenging that assessment. They have the  
16 burden of proving that they failed to comply  
17 with the statute, that it's not just value et  
18 cetera. As it is now, the property appraiser  
19 goes into these proceedings with a presumption  
20 that -- the presumption that their appraisal is  
21 correct.

22 CHAIRMAN BENSE: Commissioner Riley,  
23 follow-up question.

24 MS. RILEY: Yes, please. Because it's  
25 actually the first two lines that are underlined

1 in Amendment 1, which is lines 10 and 11. And  
2 then in Amendment 2, which is yours, 12 and 13.

3 The first one says appraiser -- this was  
4 Amendment 1 on Commissioner Wilkinson.  
5 Appraiser has the initial burden of proving  
6 that his or her assessment value was based on a  
7 consideration of all the factors set forth.

8 Yours says, Appraisers shall have the  
9 burden of going forward and proving that his or  
10 her assessment was arrived at by -- is -- is  
11 there any difference in that verbiage of those  
12 two -- is there a difference that I would need  
13 to be aware of? Is it the same -- the same  
14 thing in different words?

15 MS. BARNETT: Mr. Chairman?

16 CHAIRMAN BENSE: Commissioner Barnett, you're  
17 recognized.

18 MS. BARNETT: They -- it is essentially  
19 saying the same thing different ways. And  
20 there's -- as with so many things, you can express  
21 it in different words. The -- what may be a --  
22 what was appealing about the language in Amendment  
23 2, Commissioner Riley, is that this language is  
24 what the Legislature is dealing with, and we're  
25 going to be sending a recommendation to the

1       Legislature.

2               We felt that, since it did exactly the  
3       same thing, that it was better to use the  
4       language that they now have before them as an  
5       expression of support from this Commission.  
6       But these two proposals are essentially the  
7       same.

8               CHAIRMAN BENSE: Further questions? We're on  
9       the substitute amendment. Further questions?

10              (No response.)

11              Is there debate? Is there debate on the  
12       substitute amendment as amended?

13              (No response.)

14              Seeing none, all in favor of the  
15       substitute amendment say aye.

16              (Aye.)

17              Opposed no.

18              (No response.)

19              Show the substitute amendment passes.

20              And that takes us back to Statutory  
21       Recommendation 0013, and Commissioner Story is  
22       going to carry the burden on this from here on  
23       as chairman of the F and T Committee.

24              MS. STORY: Thank you, Mr. Chairman. SR13  
25       set out -- we've discussed the amendment in

1 detail. The actual original statutory  
2 recommendation set out to clarify, when you look  
3 at the eight factors used in just valuation or  
4 highest and best use, factor number two, there is  
5 a lot of variability in terms of how that was  
6 perceived, county to county. And this  
7 recommendation was -- was an attempt to clarify.

8 Specifically what this statutory  
9 recommendation does is say that, when looking  
10 at just valuation for highest and best use,  
11 that the property appraiser must consider  
12 zoning changes, currency requirements, and  
13 permits. That is to say that -- to say that I  
14 will value this because the zoning may change  
15 in the future, or, for example, a new condo is  
16 built next to an existing strip center where  
17 people are under long-term leases.

18 It protects that by looking at zoning  
19 permitting that actually looks at immediately  
20 permittable, so you don't have that time lag  
21 between new developments and existing  
22 developments that are there.

23 So, I understand, and Commissioner  
24 Wilkinson was very helpful in putting this  
25 together, that many people do look at that, but

1       there is the thought that there's not  
2       consistency across the state, even though some  
3       property appraisers do this. This  
4       recommendation is a recommendation to the  
5       Legislature to ensure some clarification in  
6       terms of how we think that that factor should  
7       be looked at and how it should be interpreted.

8           CHAIRMAN BENSE: Okay. Commissioner Story  
9       having re-explained the proposal, the statutory  
10      recommendation, do we have any public testimony on  
11      the recommendation itself? Are there questions of  
12      the members?

13           (No response.)

14           Is there debate by the members?

15           (No response.)

16           Okay. Seeing none, Commissioner Story  
17      having waived her closing on her proposal, the  
18      question occurs on passage of Statutory  
19      Recommendation 0013. The clerk will call the  
20      roll.

21           MS. FRIER: Chair Bense.

22           CHAIRMAN BENSE: Yes.

23           MS. FRIER: Commissioner Barney Barnett.

24           MR. BARNETT: Yes.

25           MS. FRIER: Commissioner Martha Barnett.



1 MS. BARNETT: Yes.  
2 MS. FRIER: Commissioner Bostick.  
3 MR. BOSTICK: Yes.  
4 MS. FRIER: Commissioner Corcoran.  
5 MR. CORCORAN: Yes.  
6 MS. FRIER: Commissioner D'Alemberte.  
7 MR. D'ALEMBERTE: Yes.  
8 MS. FRIER: Commissioner Hogan.  
9 MR. HOGAN: Yes.  
10 MS. FRIER: Commissioner Johnson.  
11 MS. JOHNSON: Yes.  
12 MS. FRIER: Commissioner Kyle.  
13 MR. KYLE: Yes.  
14 MS. FRIER: Commissioner Lacasa.  
15 MR. LACASA: Yes.  
16 MS. FRIER: Commissioner Levesque.  
17 MS. LEVESQUE: Yes.  
18 MS. FRIER: Commissioner Martinez.  
19 MR. MARTINEZ: Yes.  
20 MS. FRIER: Commissioner Mathis.  
21 MS. MATHIS: Yes.  
22 MS. FRIER: Commissioner McKay.  
23 MR. MCKAY: Yes.  
24 MS. FRIER: Commissioner McKee.  
25 MR. MCKEE: Yes.

1 MS. FRIER: Commissioner Les Miller.

2 MR. LES MILLER: Yes.

3 MS. FRIER: Commissioner Randy Miller.

4 MR. RANDY MILLER: Yes.

5 MS. FRIER: Commissioner Moore.

6 MR. MOORE: Yes.

7 MS. FRIER: Commissioner Riley.

8 MS. RILEY: Yes.

9 MS. FRIER: Commissioner Rouson.

10 (No response.)

11 MS. FRIER: Commissioner Story.

12 MS. STORY: Yes.

13 MS. FRIER: Commissioner Turbeville.

14 MR. TURBEVILLE: Yes.

15 MS. FRIER: Commissioner Wilkinson.

16 MR. WILKINSON: Yes.

17 MS. FRIER: Commissioner Yablonski.

18 MR. YABLONSKI: Yes.

19 MS. FRIER: Vice Chair Scott.

20 VICE CHAIR SCOTT: Yes.

21 CHAIRMAN BENSE: And by your -- by your vote  
22 the recommendation passes unanimously.

23 Next up is committee substitute for  
24 Constitutional Proposal No. 0042 by  
25 Commissioner Barney Barnett.

1 MR. BARNETT: Thank you, Mr. Chairman. That  
2 was a great vote we just had and, given the  
3 popularity of that, I agree with Commissioners  
4 Wilkinson and Barnett that this should be a -- not  
5 on the constitution but through the Legislature.  
6 And assuming they do that, then we won't need  
7 this. So right now I'd move we TP this.

8 CHAIRMAN BENSE: Without objection, show  
9 CP0042 temporarily postponed.

10 Next up is Constitutional Proposal  
11 No. 0030 by the Governmental Services  
12 Committee. And I think we have -- Commissioner  
13 Roberto Martinez is going to present this  
14 proposal. You're recognized.

15 MR. MARTINEZ: Mr. Chairman, thank you. Good  
16 afternoon.

17 This proposal is a committee proposal from  
18 the Government Services Committee. It was  
19 voted off favorably from that committee, and  
20 also from the Planning and Budget.

21 What this proposal does, it is an  
22 amendment to Article 9, Section 1 of the  
23 Florida constitution. And it is designed to  
24 make class size limitations applicable to  
25 school averages. And it also creates limited

1 flexibility to the number of students assigned  
2 to a teacher.

3 As many know, in November of 2002 the  
4 voters passed the class size amendment, and  
5 what that does is that requires a certain  
6 student/teacher ratio as follows: From pre-K  
7 through the third grade, 18 students; from  
8 fourth grade throughout the eighth grade, 22  
9 students; from the ninth grade to the 12th  
10 grade, 25 students.

11 To the -- that amendment will be required  
12 to be applicable at the classroom level  
13 beginning in the year 2010, 2011. As a result  
14 of the enabling legislation passed by the  
15 Legislature, that amendment has taken effect  
16 over time.

17 And where we're at right now is  
18 implementing the requirements of that amendment  
19 by measuring the criteria at the schoolwide  
20 average.

21 The next year, beginning with the next  
22 school year in 2008, 2009, the class size  
23 amendment will begin to be implemented at the  
24 actual classroom level.

25 What this amendment seeks to do is to keep

1 the measurement of the ratio where it's being  
2 measured right now, and that is at the  
3 schoolwide average, and using the same numbers  
4 that are in the class size amendment, 18, 22,  
5 and 25, and also provide for a hard cap of  
6 five, so that -- that number could never be  
7 exceeded by more than five.

8 This amendment, Mr. Chairman, was  
9 presented to us at the recommendation of two  
10 associations, the Associations of  
11 Superintendents and the School Board. And they  
12 both felt that it was needed in order to allow  
13 the principals at the school the flexibility  
14 needed in order to be able to implement the  
15 requirements of the class size reduction in a  
16 manner that was both practical and rational.

17 CHAIRMAN BENSE: Okay. Commissioner Martinez  
18 having presented his proposal, before we get to  
19 the question or speaking phase, we have an  
20 amendment by Commissioner Barnett. Commissioner  
21 Barnett, you're recognized on your amendment.

22 MS. BARNETT: Thank you, Mr. Chairman.

23 The Amendment No. 1 in your package,  
24 essentially it is designed to make sure that  
25 the dollars that might be saved by limiting the

1 class size to the school level as opposed to  
2 the classroom level, that those dollars will  
3 stay in the K12 education system.

4 That's the amendment. At some point I'd  
5 want to give you my reasons for it. But that's  
6 what the amendment does. It is designed to  
7 keep that money within the K12 education system  
8 to the degree there are any fiscal savings  
9 resulting from this constitutional change.

10 CHAIRMAN BENSE: Okay. Commissioner Barnett  
11 has explained her amendment. Are there questions  
12 of the sponsor of the amendment? Are there  
13 questions of the sponsor of the amendment? Is  
14 there public testimony?

15 MS. LEVESQUE: Question.

16 CHAIRMAN BENSE: Oh, I'm sorry, Commissioner  
17 Levesque.

18 MS. LEVESQUE: Commissioner Barnett, is your  
19 intent that is something that occurs every year  
20 for forever?

21 CHAIRMAN BENSE: Commissioner Barnett, you're  
22 recognized.

23 MS. BARNETT: At this point in time, there is  
24 no Sunset date on this, Commissioner Levesque.

25 CHAIRMAN BENSE: Further questions?

1 (No response.)

2 Is there any public testimony on this  
3 amendment? Anyone like to speak? Come on up,  
4 fellas.

5 MS. BARNETT: Mr. Chair, at some point will I  
6 be able to tell you why I think this is important?

7 CHAIRMAN BENSE: Sure. When they're done,  
8 and let's get -- we'll get back on the explanation  
9 of the bill. That's probably the proper venue  
10 would be when you would explain the bill, but  
11 that's fine.

12 MR. MONTFORD: Mr. Chair and Commissioners,  
13 thank you for this opportunity. We --

14 CHAIRMAN BENSE: State your name and address,  
15 please.

16 MR. MONTFORD: Bill Montford, CEO of the  
17 Florida Association of District School  
18 Superintendents.

19 Our association supports this amendment.  
20 There's been some concern, quite frankly, all  
21 along as to -- are we shooting ourselves in the  
22 foot? And we think with this amendment this  
23 will -- not only we think is the right thing to  
24 do, we think it will give us a much better  
25 chance of passing this in November.

1 I know you're short on time, but again, we  
2 support that, and my colleague, Wayne Blanton  
3 from the School Board Association is here as  
4 well.

5 CHAIRMAN BENSE: Okay. Thank you. Any  
6 questions?

7 (No response.)

8 Mr. Blanton, you're recognized. State  
9 your name and address for the record, please.

10 MR. BLANTON: Thank you. I'm Wayne Blanton,  
11 executive director of the Florida School Board  
12 Association, 203 South Monroe Street, Tallahassee.

13 This alleviates -- this amendment that  
14 Commissioner Barnett has put further alleviates  
15 a lot of the concerns of a number of people out  
16 there that I believe would be against this  
17 amendment because they think it would cause us  
18 to, quote, lose money in the public education  
19 system.

20 This guarantees the dollars that are saved  
21 are going to stay in the educational system. I  
22 think we can pick up a lot of support. We  
23 support this. We support the entire amendment,  
24 but we also -- the entire piece of legislation,  
25 but we also support this very strongly because



1 I think that it would eliminate nearly most --  
2 nearly all the criticism that would be brought  
3 about on this amendment on the cost of the  
4 amendment. And this provides a substantial  
5 savings. And I urge your support,  
6 Mr. Chairman.

7 CHAIRMAN BENSE: Question by Mr. Gelber.  
8 You're recognized.

9 MR. GELBER: Thank you. And maybe  
10 Commissioner Barnett, you can answer this, but you  
11 follow the budget pretty carefully every year.  
12 How do you figure it's going to guarantee that you  
13 keep that money?

14 I assume what will happen is the  
15 Legislature will come up with an amount that it  
16 thinks it has saved by going to schoolwide  
17 averaging. And what is that amount -- let's  
18 say it's a billion dollars. That's going to --  
19 is that going to -- what is the number that's  
20 going to be added to, and how will we know that  
21 the number it's been added to is where you  
22 thought it would be?

23 In other words, how do you guarantee that  
24 this actual money is staying in the system?

25 CHAIRMAN BENSE: You're recognized to answer

1 the question.

2 MR. BLANTON: I believe that right now we can  
3 calculate on a year-by-year basis -- as you know,  
4 under the constitutional amendment, we're required  
5 to reduce class size by two every year. Taking  
6 that into consideration, when you get to the point  
7 that your schoolwide average, statewide, you would  
8 know what that budget figure is on that given  
9 year.

10 If there were a reduction the next year,  
11 you would say no, last year the class size  
12 amendment produced this. You cannot reduce it  
13 below that amount.

14 I believe it's very easy for the  
15 Department of Education to calculate those  
16 figures. They do it now on how we're doing our  
17 reduction. It would just be a simple  
18 calculation of year by years, as long as we're  
19 staying at this figure.

20 MR. GELBER: Can I follow up?

21 CHAIRMAN BENSE: You're recognized.

22 MR. GELBER: I guess my point -- I think  
23 probably you could calculate the savings. I think  
24 that's probably right. In fact, probably a lot of  
25 people who are saying it's very costly right now

1       may be downsizing their cost of it in the next  
2       year, because they realize they're going to be  
3       tethered with that next year when they --  
4       actually, if it were to pass.

5             My question is: You're going to -- how do  
6       you assure that it stays in the system?

7       Because that amount is not necessarily an  
8       amount that's guaranteed. Next year we -- this  
9       year, next six weeks, we're probably going to  
10      cut our budget a billion and a half, maybe two  
11      and a half billion, I don't know. But how do  
12      you know that the amount you're adding that  
13      number to is a fixed number, and reliable?

14            CHAIRMAN BENSE: Mr. Blanton, you're  
15      recognized.

16            MR. BLANTON: I guess it's up to us to  
17      convince you as legislators that that's the amount  
18      that has to stay in the system and you cannot cut  
19      that amount. I am not so naive as to stand up  
20      here and tell you that there can't be some blue  
21      smoke and mirrors with the way the state budget is  
22      done, because it happens on occasion.

23            I think it's really up to us to make sure  
24      you know what that amount is, and let us keep  
25      the Legislature's feet to the fire on that

1 particular amount. We can calculate it. The  
2 Legislature can always move money in and out  
3 the back door. On occasion, I've seen that  
4 happen. And I really think that, to honestly  
5 answer your question, it's going to be up to us  
6 and the education community to say, this is  
7 what we should have gotten, this is what the  
8 class size saved, and this is what the amount  
9 has to go into the FEFP based on that.

10 CHAIRMAN BENSE: Further questions?

11 MR. RANDY MILLER: Mr. Chair?

12 CHAIRMAN BENSE: Commissioner Miller, you're  
13 recognized.

14 MR. RANDY MILLER: Thank you, sir. Question  
15 of Dr. Blanton.

16 Dr. Blanton, refresh my memory as to how  
17 do the school districts get the class size  
18 money today?

19 CHAIRMAN BENSE: You're recognized.

20 MR. BLANTON: Commissioner Miller, there is a  
21 formula, and it's -- the Department of Education  
22 calculates the formula based on how you've been  
23 reducing every year by two. And how you're doing  
24 with that is how the money goes out.

25 The Legislature appropriates an amount for

1 class size. It's a line item, and that goes  
2 out to the individual districts based on the  
3 formula on a year-by-year basis on how you've  
4 done in the previous year as to whether or not  
5 you've met those goals that were required by  
6 the constitutional amendment.

7 MR. RANDY MILLER: Mr. Chair?

8 CHAIRMAN BENSE: You're recognized,  
9 Commissioner Miller.

10 MR. RANDY MILLER: This is a very late change  
11 in the amendment that we adopted in the F and T --  
12 well, I forget which committee it was. Anyway,  
13 one of the committees I was on. When you and  
14 Mr. Montford brought to us some language to fix  
15 the class size amendment. I believe that is  
16 CP0030.

17 Now, this amendment that Commissioner  
18 Barnett is offering basically is holding you  
19 harmless. I think in that testimony you  
20 indicated that there were many school districts  
21 that had met the class size amendment; is that  
22 correct?

23 MR. BLANTON: That's correct.

24 MR. RANDY MILLER: But they are still getting  
25 money; is that not correct?

1 MR. BLANTON: They have met -- if I could.  
2 They have met -- Commissioner Miller, they have  
3 met the school-by-school class size amendment.  
4 They have not yet met the class by class, which  
5 starts, you know, in a couple of years.

6 Right now most districts have met that  
7 school level class size provision. Many  
8 districts have not met -- if you have to keep  
9 on going down by two more students for the next  
10 two years, they have not met that at this  
11 point.

12 MR. RANDY MILLER: Mr. Chair, if I might?

13 CHAIRMAN BENSE: You're recognized.

14 MR. RANDY MILLER: And I think that's where  
15 you've got the sympathy of our committee, was that  
16 you should not be foreclosed on how to manage  
17 that. But at some point we were looking at the  
18 amount of money involved, and for those counties  
19 that have already met the standard, why would we  
20 have a separate -- given the vote we have taken  
21 earlier, where the state's going to pick up all of  
22 RLE, now we're talking about two pots of money.  
23 The state's picking up RLE, and they were still  
24 funding class size amendment.

25 Is that what you envision?

1 MR. BLANTON: That's what I envision.

2 MR. RANDY MILLER: Thank you.

3 CHAIRMAN BENSE: Are there further questions?  
4 Commissioner Riley, you're recognized.

5 MS. RILEY: Property taxes are kind of my  
6 specialty, not schools. But taking people around  
7 and showing property for 35 years, I know that  
8 school is extremely important to people who buy a  
9 home.

10 This amendment kind of seems like having  
11 your cake and eat it too to me. I was under  
12 the impression that we were going to delay  
13 the -- the time for schools to have to comply  
14 to the class size amendment. Now we're looking  
15 at saying that it's going to be on an average,  
16 and any savings will just stay in the school  
17 too.

18 So what would encourage you to comply  
19 sooner if it's not going to cost you anything  
20 to do -- how can we assure the people who voted  
21 for this class size amendment and wanted  
22 smaller classes for their children that that is  
23 going to happen?

24 MR. BLANTON: Mr. Chair?

25 CHAIRMAN BENSE: You're recognized.

1           MR. BLANTON: I believe you can assure the  
2 individuals that this gives us some year-by-year  
3 flexibility. This does not make a big difference  
4 in the class size amendment. What this does, the  
5 total proposal here gives us year-by-year  
6 flexibility. This amendment allows you to tell  
7 your clients that educational funding is not going  
8 to be reduced just because they have met a certain  
9 level of class size, that those dollars that would  
10 have gone to only class size can now go to that  
11 school to be used for other purposes if they need  
12 it.

13           MS. RILEY: Mr. Chairman?

14           CHAIRMAN BENSE: Commissioner Riley, you're  
15 recognized for a follow-up question.

16           MS. RILEY: And if you can help me understand  
17 this. But I don't think this holds the schools  
18 accountable, because it says, this goes on  
19 forever. There's no sort of drop dead period on  
20 when the schools must comply, but yet you don't  
21 have to worry about any loss of revenue if you  
22 don't comply, correct?

23           CHAIRMAN BENSE: Mr. Blanton, you're  
24 recognized.

25           MR. BLANTON: Not exactly. I believe that



1        what this does is give each school one year's  
2        worth of flexibility on their class size. And the  
3        next year they have -- the way that the amendment  
4        is written, that the full amendment, not this  
5        amendment but the full amendment, the full  
6        constitutional proposal. That allows local  
7        districts to have some control for that one year  
8        and then they can come in the next year, not be  
9        over five for that school level. So there is some  
10       element of control there.

11                This amendment also tells those same  
12        schools that when they have met that level that  
13        they're not going to be losing any additional  
14        dollars that could go out the back door some  
15        other way. This is our method of trying to  
16        hold the Legislature and others accountable,  
17        that when we do meet that, that we can also  
18        hold onto the same dollars.

19                CHAIRMAN BENSE: Commissioner Scott, you have  
20        a question?

21                VICE CHAIR SCOTT: Right. So we started with  
22        the idea that the average class size, it'd be very  
23        expensive and almost impossible to meet it, and by  
24        the way, if we are able to go to a school, we  
25        would save money. And now all that money, you

1 want it to be spent on something other than class  
2 size as I'm understanding it? They keep getting  
3 the money even if all the class size problems are  
4 solved?

5 CHAIRMAN BENSE: You're recognized,  
6 Mr. Blanton.

7 MR. BLANTON: I believe that it's going to  
8 take a long time to solve all the class size  
9 amendments. That's item number one. Number two  
10 is, is this is our attempt to prevent those  
11 dollars that would be going to class size from  
12 going somewhere else. If you can keep it in -- if  
13 you can keep it in the budget per se, Commissioner  
14 Scott, you can keep it in the budget per se, and  
15 we know it stays there, that could go, when we're  
16 no longer hiring the extra teachers for the class  
17 size amendment, those dollars that we save could  
18 go for higher teacher salaries.

19 This is an attempt to get as broad a  
20 support as we can to pass our class size  
21 amendment and make it more realistic on a  
22 year-to-year basis.

23 CHAIRMAN BENSE: Further questions?

24 (No response.)

25 Any more audience participation?

1 MR. BLANTON: Thank you, Mr. Chairman.

2 CHAIRMAN BENSE: Thank you, Mr. Blanton.

3 Okay. We go into the debate phase of this  
4 amendment. We also have with us today -- and  
5 we're going to let you go up first -- is  
6 Representative Joe Pickens, who is in charge of  
7 the House of Representatives Education Funding  
8 Commission -- Committee. I don't know what to  
9 call it today.

10 MR. PICKENS: Schools and Learning Council.

11 CHAIRMAN BENSE: All right. All right.

12 MR. PICKENS: Tune in next year for the name  
13 change. Thank you, Mr. Chair and Mr. Speaker.

14 To the amendment to the constitutional  
15 amendment -- and I have a couple of remarks,  
16 but I think that the remarks are better  
17 initiated by asking two questions. How does  
18 the -- as I read the constitutional amendment,  
19 how does it suggest that we calculate the  
20 savings so that there's some degree of  
21 certainty among the proponents -- and frankly  
22 those that will be required to carry it out --  
23 of how we demonstrate that we have complied  
24 with this constitutional mandate to extend the  
25 quote, savings, unquote, in a certain way?

1           As the person that has been responsible to  
2           some degree for the education budget in the  
3           House -- this is the fourth year -- I am at a  
4           loss to determine how we prove to a plaintiff  
5           or a parent or -- or anyone that we -- that of  
6           the billion extra dollars that went into the  
7           education budget in K12 in year 10/11, that  
8           450 million or 900 million of it was money that  
9           would have been spent on class size.

10           And -- and so, to have a constitutional  
11           mandate that I can't determine how it would be  
12           calculated, but even if we knew how it would be  
13           calculated, how I could prove to you that I  
14           guess ostensibly yet only -- K12 would have  
15           only gotten 550 million instead of a billion  
16           were it not for the, quote, savings.

17           And so I really am looking for some help  
18           and guidance on that and a discussion on that,  
19           if I might, since you're considering amending  
20           it on to -- to, I think, Mr. Martinez's  
21           constitutional amendment.

22           That really is on here for -- as someone  
23           that implements a budget and would be --  
24           might -- well, I won't be responsible for it  
25           because I'm going the road that you did and

1 Senator McKay did. But I would like to help in  
2 that regard for future budget chairs.

3 CHAIRMAN BENSE: Besides that proposed  
4 amendment, though, any words of wisdom for us,  
5 Representative Pickens?

6 MR. PICKENS: On --

7 CHAIRMAN BENSE: You -- I think you --

8 MR. PICKENS: On the amendment as well?

9 CHAIRMAN BENSE: On the bill itself. On the  
10 proposal itself.

11 MR. PICKENS: Yes, thank you. I'm here to  
12 support the amendment -- the bill itself  
13 wholeheartedly. I mean, I, as you know, have been  
14 a proponent of revising class size, not -- not  
15 repealing it, since I sponsored the class size  
16 implementation bill.

17 And I do so not really looking for  
18 savings. I'm not here today to tell you that  
19 at this point we can't afford it. I think we  
20 shouldn't afford it. I think that the money  
21 would be much better spent in paying teachers  
22 much higher salaries than in paying more  
23 teachers lower salaries.

24 And so, philosophically, I think that we  
25 should revise it. But for me, I think as

1 Dr. Blanton has said and I think Bill Montford  
2 will say, if he hasn't already, the  
3 practicality of implementing the current  
4 constitutional amendment as it reads in  
5 09/10 -- or in 10/11, I think is going to be  
6 tremendous.

7 So I am here asking for you to ask the  
8 voters if they want class size but in a version  
9 that is much more practical and much more  
10 reasonable and will result in much less turmoil  
11 for their children and other people's children  
12 if they happen to be in a class where that 26th  
13 child comes in or where that 19th child comes  
14 in if it's in elementary school.

15 I'm also here to plead with you that --  
16 don't take the position that the Simmons  
17 statutory fix and this constitutional amendment  
18 are in some way mutually exclusive or that one  
19 makes the other unnecessary, because I  
20 definitely don't think that is the case.

21 I think that Representative Simmons and  
22 all of the stakeholders, from Mr. Meyer to the  
23 superintendents' association and school board  
24 association, have done an admirable job coming  
25 together on a product that has consensus. And

1 the goodwill that Representative Simmons has  
2 generated on this once very contentious issue  
3 is -- is remarkable.

4 But the outcome of that proposal is not  
5 certain, nor does it create as much flexibility  
6 as I think school districts actually need in  
7 addressing class size issues in the State of  
8 Florida. I have -- certainly could provide you  
9 the sworn statement of my constitutional law  
10 professor at the University of Florida, who  
11 will kindly state that I'm not a constitutional  
12 law scholar. On the other hand, I have  
13 sometimes thought that other judges were also  
14 not constitutional law scholars.

15 (Laughter.)

16 And I hope to just leave it that maybe  
17 that brilliant minds can disagree on those  
18 issues. But I also know that not-so-brilliant  
19 minds can also disagree on those issues.

20 There is going to be a strict  
21 constructionist somewhere in this state that I  
22 believe is going to be a willing plaintiff and  
23 is going to challenge this statutory  
24 adjustment.

25 And I don't think that the best way to

1 decide the future of class size in the State of  
2 Florida is on whether we get a judge or a panel  
3 of judges that are flexible and -- and follow  
4 the philosophy of wide latitude, quote/unquote,  
5 for the Legislature in the implementing of the  
6 constitutional amendment or think that a strict  
7 constructionist view of the numbers are the  
8 numbers, and you do indeed have to count every  
9 minute of every day of every school year from  
10 2010/11 in perpetuity, and that not once for  
11 even a moment in any one day in any one week of  
12 any one month of any one school year can you  
13 deviate from 18, 22, and 25.

14 And doesn't that really mean that school  
15 districts have to be at about 16 and 20 and 23  
16 in order to accommodate somebody that lawfully  
17 moves into their school district's attendance  
18 zone, or has to beg somebody to jump out of a  
19 class in the middle of it and go online to the  
20 Florida virtual school, or we just tell them  
21 that there's no room in the inn, even though  
22 you need English 4 to graduate and English 4 is  
23 the class that is full.

24 So for me it is flexibility in the  
25 implementation, and it is the certainty, if it



1 passes this august body and then the -- on the  
2 ballot in November, it is the constitutional  
3 certainty that the Legislature will have, but  
4 more importantly that school districts will  
5 have going forward in planning their schedules  
6 and hiring their teachers and in promising the  
7 students that they are constitutionally  
8 obligated to serve that there will in fact be  
9 room in the inn for every Floridian's children  
10 at every school.

11 Thank you very much.

12 CHAIRMAN BENSE: Stay there, Commissioner  
13 Pickens. Let me ask you, if you don't mind, a  
14 couple of questions. And I want to get back  
15 frankly to Commissioner Barnett's amendment.

16 I have some concerns on that amendment  
17 with respect to tying the Legislature's hands  
18 somewhat. But my question to you is, you have  
19 chaired the education appropriations committee  
20 for the last four years. And I would assume  
21 you've been an advocate for dollars to go into  
22 the education pool, so to speak.

23 And my question to you is: Without  
24 Commissioner Barnett's proposed amendment to  
25 this proposal, do you think that -- and then

1 let's assume that this amendment passes, do you  
2 think those dollars would be diverted out of  
3 education and into something else?

4 MR. PICKENS: I do not think they will. And  
5 I can tell you, the only thing that is diverting  
6 dollars from education is the state of our  
7 economy.

8 CHAIRMAN BENSE: Right.

9 MR. PICKENS: I mean, the Legislature -- and  
10 I don't think it's personal to me or to you when  
11 you were speaker, or to Marco as speaker now, the  
12 Legislature has made a commitment to funding  
13 public education, even in the largesse that we  
14 enjoyed three years ago.

15 The Legislature made a judgment decision  
16 that the largest amount of that money was going  
17 to go into public education. I mean, 11 and a  
18 half percent per student increase in one year  
19 under your leadership and that of Chairman  
20 Negron, that wasn't because class size. Class  
21 size was a fraction of the amount of money that  
22 was put in public education in that year, and  
23 frankly it is a percentage only of the amount  
24 that has been put into education during my four  
25 years -- six if you count the two years that I

1        was vice chair under Chairman Simmons.

2            I think that class size operates much more  
3        as a categorial -- that requires us to fund it  
4        and we do, but it is more restrictive than it  
5        is beneficial in that new state money is going  
6        into the education budget for class size.

7        New -- as required by the constitution, and as  
8        Chairman Kyle knows just as well. He put new  
9        state money into the education budget in order  
10       to comply with class size.

11           But I cannot tell you, and I cannot --  
12        it's just the same as -- I can't prove to you  
13        that -- and nor do I think we should have to  
14        that 322 million more dollars went into  
15        education because of class size than would have  
16        if we had not had class size. It means we were  
17        constitutionally required to put that money in  
18        up front. And again, I think it operated more  
19        as a categorial than it did as an absolute  
20        guarantee of an additional amount of money,  
21        which I think belies the concept of -- that  
22        there is a fixed amount of savings.

23           But if you told me how to calculate that  
24        fixed amount of savings, we could at least have  
25        that dialogue of, okay, how much is it and how

1       can we prove it to you.

2               When I discussed this with staff in the  
3       Senate -- and, yeah, occasionally we actually  
4       do that when we're desperate for a second  
5       opinion.

6               CHAIRMAN BENISE:  Don't go there.

7               (Laughter.)

8               MR. PICKENS:  And that was really -- that was  
9       really the consensus on that side was -- not of  
10       members was, at least with this mandate that's in  
11       the constitution now, we do know how to calculate  
12       it, because we can calculate classroom space and  
13       how much that costs and how much it costs us to  
14       hire teachers and to get down to the numbers.

15               So some felt as though that constitutional  
16       amendment as it currently is would be -- not  
17       anybody's preference, but it would be more  
18       readily compliable with because we can at least  
19       figure out what those numbers are.

20               If your answer is, well, you can figure  
21       out what those numbers are, and that's  
22       450 million a year for the next two years,  
23       900 million, and you don't have to spend that  
24       in the next two years, because we have left it  
25       with -- the voters have left it at the

1 schoolwide average, there's your number.

2 Okay? And I say fine, but then we're back  
3 to, how do I prove to you that that number is  
4 part of the 1.2 billion that we put in? I'll  
5 tell you it is. I'll promise you it is. I'll  
6 swear under oath that it is. But, you know,  
7 that's -- that's where I am.

8 CHAIRMAN BENSE: Commissioner Scott, you're  
9 recognized for a question.

10 VICE CHAIR SCOTT: I'm happy to know that you  
11 consult with the Senate staff occasionally and  
12 that they were willing to talk to you, because  
13 that wasn't always the case.

14 MR. PICKENS: It won't be in two weeks when  
15 we're in conference either.

16 (Laughter.)

17 VICE CHAIR SCOTT: Anyway, we've been  
18 wrestling with this. I know that's there a  
19 proposal, I guess the one you're referring to  
20 that's -- the council sent to something and the  
21 House. Do you think that's going to pass? That's  
22 the first question.

23 The second question is, I know you said  
24 you were not a constitutional lawyer, but is --  
25 is it something that at least, you know, I

1 mean, do you think there's a chance that could  
2 solve this problem without a constitutional  
3 amendment?

4 MR. PICKENS: It addresses the issue. It  
5 doesn't -- it doesn't address it as well or as  
6 completely. You know, when you have to do the  
7 true-up in October, which is what this requires to  
8 meet those hard caps, it's not quite as flexible a  
9 mechanism as is proposed by this constitutional  
10 amendment. I don't think the numbers in the end  
11 are going to be a great deal different, but I  
12 do -- I do prefer the constitutional certainty of  
13 a constitutional amendment if it passes.

14 So, really, I don't think that it -- it  
15 fixes it as far as we can go under -- I think,  
16 under the current constraints of the  
17 constitutional language as it exists. But it  
18 doesn't correct it -- address it in -- quite as  
19 far as I think we should go, and I think  
20 Dr. Blanton would tell you we should go. And I  
21 hope the superintendents would too on where we  
22 should be with the flexibility of  
23 implementation.

24 Again, this is not a lot for us about cost  
25 saving, it's about the realistic opportunity to

1       implement some form of reasonable class size in  
2       Florida.

3               CHAIRMAN BENSE: Okay. Further questions,  
4       members? Further questions?

5               (No response.)

6               Thank you, Representative Pickens. Thank  
7       you very much. Hope your family is doing well.

8               We're on the -- we're back on the  
9       amendment, and we've had public testimony and  
10      now it's time to ask the sponsor of the  
11      amendment any questions.

12              Before that, you wanted to talk about why  
13      you filed the amendment, so -- I think I know,  
14      but you're recognized to explain that,  
15      Commissioner Barnett.

16              MS. BARNETT: I'll either do that or I'll  
17      close on the amendment, so you don't have -- so I  
18      don't have to say it twice.

19              CHAIRMAN BENSE: Why don't you do it at  
20      closing? That'll be fine.

21              Let's -- let's move to debate. Are there  
22      questions in debate? Are there questions in  
23      debate?

24              MR. RANDY MILLER: Mr. Chair?

25              CHAIRMAN BENSE: Commissioner Miller, you're

1 recognized in debate.

2 MR. RANDY MILLER: I do have a question.

3 CHAIRMAN BENSE: We'll go back to questions.

4 MR. RANDY MILLER: On line 25, virtual  
5 classes -- actually line 26. We don't have that  
6 in the original?

7 MR. MARTINEZ: Mr. Martinez?

8 CHAIRMAN BENSE: Commissioner Martinez,  
9 you're recognized.

10 MR. MARTINEZ: That's not part of the  
11 Amendment No. 1. That's just part of the CP30.  
12 That's added language that is not in the current  
13 constitutional amendment approved by the voters in  
14 November of 2002. So that would be language in  
15 our CP30.

16 CHAIRMAN BENSE: If it -- if the amendment  
17 passes?

18 MR. MARTINEZ: Yes, sir.

19 CHAIRMAN BENSE: Commissioner Story, you're  
20 recognized for a question. Or -- question or  
21 debate? Let's finish the questions, if you don't  
22 mind. Any more questions? Get them off your  
23 chest.

24 (No response.)

25 We're in debate. Commissioner Story,



1       you're recognized.

2               MS. STORY: Well, it's kind of a question,  
3       also, I guess.

4               Representative Pickens brought up an issue  
5       that I guess I'm concerned about with the  
6       amendment, which is whether the potential  
7       ambiguity of calculating this could lead to a  
8       lot of educational lawsuits, which I don't  
9       think benefit anybody. And I just have that as  
10      a concern.

11              And I guess the question I would have is,  
12      because it appears -- and I could be wrong --  
13      that there's not a definitive formula, could  
14      that lead to more uncertainty and people who  
15      aren't happy with whatever calculation is come  
16      up with could then file a lawsuit saying that  
17      we're not complying with the amendment?

18              CHAIRMAN BENSE: I think with respect to the  
19      lawsuit issue, Commissioner Martinez, if you could  
20      address that.

21              MR. MARTINEZ: Commissioner Story, tell me  
22      how you think that one would come up, please.

23              MS. STORY: To Representative Pickens'  
24      comment is that the calculation of saying this  
25      much came from the savings of the class size

1 amendment, and if we're off on that and someone  
2 feels like enough -- not enough money was given to  
3 education, if they could challenge and say, well,  
4 I don't agree that the savings would have been  
5 450 million, I think the savings would have been  
6 500 million, and then we're tied up in court  
7 over -- because somebody doesn't agree with how  
8 much money was calculated.

9 Because there seems to be so much  
10 ambiguity in calculating. And maybe I'm wrong  
11 but it seems to me there's not at least -- I  
12 won't say ambiguity. It appears that there's  
13 not a definitive calculation that could  
14 preclude people questioning how much money was,  
15 quote, saved or not.

16 CHAIRMAN BENSE: Either Commissioner Barnett  
17 or Martinez can answer that.

18 MR. MARTINEZ: Well, you might not be  
19 satisfied with this, but of course, I mean,  
20 obviously, somebody could file a lawsuit. I think  
21 this does create ambiguity and a possibility to  
22 allege that the constitution hasn't been met.  
23 There are a lot of required -- a lot of mandated  
24 languages in the constitution as it pertains to  
25 education generally already there.

1 But, yes, this could possibly be another  
2 area for litigation. However, how successful  
3 that would be is another question, Susan.

4 MS. BARNETT: Mr. Chair?

5 CHAIRMAN BENSE: Further questions?

6 MS. BARNETT: Mr. Chair, just on that point.

7 CHAIRMAN BENSE: Okay. You're recognized.

8 MS. BARNETT: The issue of the ambiguity of a  
9 lack of a formula has been raised by a number of  
10 people. And really we gave some thought to trying  
11 to put a formula in the constitutional language  
12 when we first started looking at this, but decided  
13 that this is the constitution, and that what it  
14 should do is give direction to the Legislature and  
15 leave with the Legislature the flexibility to  
16 develop a formula. We do it all the time in  
17 constitutional directions, as opposed to spelling  
18 out in minute detail exactly what we're going to  
19 do, because that does give the Legislature the  
20 ability to address this based on changing  
21 circumstances that might occur.

22 So it's -- you could always have a  
23 lawsuit. I don't do lawsuits as a lawyer, but,  
24 you know, lawyers love lawsuits, and it's, you  
25 know, I personally think it's the last worst

1 option, but you're always going to have the  
2 potential of a lawsuit. And I don't know that  
3 this invites it any more than any other  
4 provision would invite litigation.

5 CHAIRMAN BENSE: Further debate? Further  
6 debate? Commissioner Moore, you're recognized in  
7 debate.

8 MR. MOORE: To the point, what I see here is  
9 that we're essentially changing the will of the  
10 people up by five, and would someone talk me out  
11 of that? That in essence what we're doing is --  
12 is establishing new maximums of 23, 27, and 30?  
13 Is there --

14 CHAIRMAN BENSE: Okay. Let's let  
15 Commissioner Martinez answer that question.

16 MR. MARTINEZ: Well, that goes to the  
17 original CP30, not to Commissioner Barnett's  
18 amendment. But we're not changing the will of the  
19 people here. This would be putting this question  
20 up to the voters, so the voters themselves can  
21 determine whether or not they want to make that  
22 change. I'm prepared to talk further about this  
23 issue, Commissioner Moore and Chairman Bense, but  
24 it seems to me that -- and I think it's more  
25 pertinent for the general debate. It seems -- so

1 let me just wait.

2 CHAIRMAN BENSE: Right. If you don't mind,  
3 that is more of a question or issue for debate.

4 Commissioner Kyle, you're recognized.

5 MR. KYLE: Are we in debate or questions?

6 CHAIRMAN BENSE: Well, we're in debate but we  
7 keep going back to questions. I don't want to --  
8 I don't want to --

9 MR. KYLE: I don't have a question so I'm  
10 just making sure.

11 CHAIRMAN BENSE: Let's do rock, paper,  
12 scissors, and we'll figure it out.

13 (Laughter.)

14 You're recognized for a question or  
15 debate, either one.

16 MR. KYLE: I'll do -- I'll pick debate. I  
17 oppose the amendment, and I don't think I can  
18 support the -- the proposition with the amendment  
19 as drafted. I think it's very vague as to how --  
20 as Chairman Pickens has said, this would be  
21 evaluated, and how you would determine the savings  
22 likewise.

23 It almost seems like a bait and switch.  
24 You know, they pass the 2002 class size  
25 amendment. We want to make classes smaller,

1 here's how you're going to do it and the size  
2 is -- and the bill initially was to make that  
3 easier to implement, because it's difficult to  
4 implement, obviously.

5 And then now we're going to go in there  
6 and say, you know, we don't want to implement  
7 it, but we want to take the money. And it's  
8 not for class size anymore; it's for  
9 operational expenses. And then on top of it,  
10 we're not even going to determine what the  
11 operational expenses are for.

12 I mean, it could end up going to just  
13 administration instead of to teachers and to  
14 salaries for rank and file teachers, it could  
15 go just to the general bureaucracy of the  
16 school board and the higher-ups rather than  
17 rank and file teachers.

18 I think it's left better to the  
19 Legislature to determine if there are some  
20 savings and money that's still there, to go to  
21 education. In the eight years you and I were  
22 in the Legislature, I don't recall there  
23 never -- I don't recall there not being an  
24 increase in general funding. And I don't think  
25 the money would go anywhere else. I don't

1 think historically that's proved -- panned out.

2 And I think it invites a lawsuit, and I  
3 think you'd be very hard pressed to determine  
4 what that amount is. And someone's going to  
5 have to make that decision, and it will  
6 probably be the courts.

7 So I rise in opposition to the amendment.

8 CHAIRMAN BENSE: Further debate?

9 Commissioner Levesque, you're recognized in  
10 debate.

11 MS. LEVESQUE: Thank you, Mr. Chairman. I  
12 have to agree with Commissioner Kyle and Chairman  
13 Pickens. I support the underlying proposal to  
14 provide flexibility on class size, because it will  
15 be nearly impossible for our school districts to  
16 implement, but this new provision and this  
17 amendment creates to me a constitutional problem.

18 Just imagine, I mean, we can probably  
19 calculate this two or three years from now, but  
20 we're in 2021 and the Legislature is supposed  
21 to figure out by some type of calculation what  
22 would have happened in 2010 for some proposed  
23 savings that could be fast-forwarded 13, 14,  
24 15, 20 years, that -- and as Commissioner  
25 Gelber said, no matter what's identified, how

1 do you ensure that that gets added on to  
2 whatever increase the Legislature would have  
3 committed toward public schools anyway?

4 I just think this is very  
5 well-intentioned, but it complicates the  
6 measure and shouldn't be part of the proposal.

7 CHAIRMAN BENSE: Commissioner Scott, you're  
8 recognized in debate.

9 VICE CHAIR SCOTT: I agree, this -- adding  
10 this, pretty open-ended, that somehow it's some  
11 sort of hold harmless on all of the money that  
12 would have been spent for class size, or was saved  
13 because we changed the way we calculate a little  
14 bit. It's going to make it very difficult and  
15 complicated, and I really don't -- I'm not for  
16 this amendment.

17 CHAIRMAN BENSE: Further debate?

18 MR. LES MILLER: Mr. Chairman?

19 CHAIRMAN BENSE: Commissioner Miller, you're  
20 recognized in debate.

21 MR. LES MILLER: I have a question then. Are  
22 we still in question?

23 CHAIRMAN BENSE: Oh, we're moving all over  
24 anyways, so ...

25 (Laughter.)



1           MR. LES MILLER: I hear that the -- the  
2           sentiment that it's going to be very hard to  
3           calculate this and how are we going to calculate  
4           it, but I'm of the mind-set that the Legislature  
5           can probably calculate this in some way. Having  
6           been there, I know that there are certain ways we  
7           do certain things.

8           Would it be more comfortable if we put a  
9           certain time frame on this, to say that the  
10          money saved would go on teachers' salaries?

11          CHAIRMAN BENSE: I think let members digest  
12          that, and let's continue in debate.

13          More debate? Is there more debate?  
14          Commissioner Riley, you're recognized in  
15          debate.

16          MS. RILEY: Thank you, Chairman. This  
17          amendment kind of reminds me of a 711 commercial.  
18          You know, you go down to the 711 and buy something  
19          and they say, how much did you save, and they say  
20          15 minutes. It's to me a little bit hard to even  
21          fathom figuring out how much money is going to be  
22          saved.

23          To have that be a debate in itself on how  
24          much money is going to be saved, it would be --  
25          it would work totally against the original

1       proposal. The reason we put this forward was  
2       to help implement this, not to take the money  
3       from class size amendment and put it somewhere  
4       else.

5               So if this amendment passes, I don't think  
6       that I could vote for the proposal with the  
7       amendment.

8               CHAIRMAN BENSE: Further debate? Further  
9       debate?

10              (No response.)

11              Okay. We're on the amendment.  
12       Commissioner Barnett, you're recognized to  
13       close your amendment.

14              MS. BARNETT: Thank you, Mr. Chairman.

15              I'm one of the people who supported the  
16       class size amendment when it was first  
17       proposed. It's been controversial in the  
18       state, but I remember the debates about the  
19       portables and the overcrowded classrooms. And  
20       I remember the parents around this state who  
21       cared deeply about their children's education.

22              They can't afford to go to private  
23       schools. They're dependent on the public  
24       education system, and they believe, whether  
25       there's any statistical evidence for it or not,

1       whether the numbers in the constitution are  
2       right or wrong, they believed that a smaller  
3       class size would provide their children with a  
4       better opportunity for an education, and that  
5       an education was the foundation of their  
6       opportunity for their children's success.

7               And as we traveled around the state, I was  
8       very mindful of the parents who came before us,  
9       not an organized effort, like some of the  
10      public testimony we had, but individual parents  
11      who came to our Commission to say, my son or my  
12      daughter is doing better because they are in a  
13      class that's smaller. They're not in a class  
14      with 60 people. They're in a class with 22 or  
15      21. Don't mess with the class size amendment.

16             I listened to Bill Montford, and I  
17      listened to Wayne Blanton. And I listened to  
18      school superintendents, and I listened to  
19      school board members around the state as well,  
20      who came to us and said, what's happened is  
21      that we have reduced class sizes. We think  
22      there are improvements, but we're at a point  
23      now where to go from the school district level  
24      to the class level itself, the dollars that  
25      that will require, the burdens it might place

1 on us to go to -- at the 19th student, to go to  
2 a new classroom, this doesn't make sense. We  
3 need more flexibility. We think we can create  
4 a better system if we just have a little  
5 flexibility.

6 And I've been struggling with this issue,  
7 because I believe that they're right. I  
8 believe that those people who every day have to  
9 administer the class size amendment, the  
10 teachers, the school board members, the  
11 administrators, I think they're right, and I  
12 believe that they deserve that flexibility and  
13 that respect.

14 But we have a constitutional amendment  
15 that may have some flexibility, but, as  
16 Representative Pickens says, may not. And I've  
17 been wondering what to do. I'm not sure the  
18 people of the State of Florida, despite what we  
19 say, will pass the class size amendment. I'm  
20 not sure they'll do it. I think they spoke  
21 loud and clear when they put it in the  
22 constitution to begin with.

23 It's going to take a huge effort to  
24 educate the parents in this state that making  
25 this change to give more flexibility to their

1 schools and their school administrators is  
2 really going -- really going to improve the  
3 educational opportunities for Johnny or Mary or  
4 Peter or Susie. There's not -- I'm not sure  
5 the people trust us on that one.

6 And so what I thought would be something  
7 that would help us build the trust and  
8 confidence of the parents and people around  
9 this state and that would look at this proposed  
10 change to the class size amendment, I thought  
11 it would be very helpful if we could tell them  
12 why we're doing it, and say, and don't worry.  
13 That 1 billion -- that 2 billion, right now we  
14 know that there's a lot of money involved in  
15 the build-out of the class size amendment.

16 If we could tell them, don't worry. Those  
17 dollars that we would be spending to reduce the  
18 class size are going to stay in the K12 system.  
19 We promise you -- we promise you those dollars  
20 are going to stay in K12.

21 I don't have a perfect formula. I don't  
22 think it's the purpose of this body to come up  
23 with a perfect formula. I trust -- the second  
24 time I've said this today. I actually trust  
25 the Legislature and have confidence in their

1 ability to administer something like this.

2 What this would be is the people of  
3 Florida telling the Legislature, okay, we trust  
4 you too. You want some flexibility on the  
5 class size, we trust you that you are going to  
6 continue to serve our needs for our children  
7 for the future of Florida.

8 And that's why I offered this amendment.  
9 I support it, or something like it. I don't  
10 mind directing it to teachers, I don't mind a  
11 Sunset on it. Those are not -- those right now  
12 are not issues to me. I would support all of  
13 that. But I believe we have to send a strong  
14 message to the parents and others who are going  
15 to vote on this, and I think without something  
16 like this, the people of Florida are not going  
17 to adopt changes to the class size amendment.

18 So that's -- and I personally will tell  
19 you, I cannot support the amendment, despite my  
20 strong respect for Bill Montford, Wayne  
21 Blanton, and the system, because -- and belief  
22 that they're right, I can't support it without  
23 something that will give assurances to the  
24 citizens of Florida that we are going -- that  
25 we heard them and that we're going to continue

1 to listen to them.

2 CHAIRMAN BENSE: Okay. Commissioner Barnett  
3 having closed on her amendment, the vote occurs on  
4 Amendment No. 1. Let's do a voice vote. All in  
5 favor say aye.

6 (Aye.)

7 Opposed no.

8 (No.)

9 The amendment fails.

10 MS. BARNETT: I'd like a roll call.

11 CHAIRMAN BENSE: Sure. Even though it might  
12 take more hands, let's have a roll call.

13 MS. FRIER: Chair Bense.

14 CHAIRMAN BENSE: No.

15 MS. FRIER: Commissioner Barney Barnett.

16 MR. BARNETT: No.

17 MS. FRIER: Commissioner Martha Barnett.

18 MS. BARNETT: Yes.

19 MS. FRIER: Commissioner Bostick.

20 MR. BOSTICK: No.

21 MS. FRIER: Commissioner Corcoran.

22 MR. CORCORAN: No.

23 MS. FRIER: Commissioner D'Alemberte.

24 MR. D'ALEMBERTE: Yes.

25 MS. FRIER: Commissioner Hogan.

1 MR. HOGAN: No.  
2 MS. FRIER: Commissioner Johnson.  
3 MS. JOHNSON: No.  
4 MS. FRIER: Commissioner Kyle.  
5 MR. KYLE: No.  
6 MS. FRIER: Commissioner Lacasa.  
7 MR. LACASA: No.  
8 MS. FRIER: Commissioner Levesque.  
9 MS. LEVESQUE: No.  
10 MS. FRIER: Commissioner Martinez.  
11 MR. MARTINEZ: Yes.  
12 MS. FRIER: Commissioner Mathis.  
13 MS. MATHIS: No.  
14 MS. FRIER: Commissioner McKay.  
15 MR. MCKAY: Yes.  
16 MS. FRIER: Commissioner McKee.  
17 MR. MCKEE: No.  
18 MS. FRIER: Commissioner Les Miller.  
19 MR. LES MILLER: Yes.  
20 MS. FRIER: Commissioner Randy Miller.  
21 MR. RANDY MILLER: No.  
22 MS. FRIER: Commissioner Moore.  
23 MR. MOORE: Yes.  
24 MS. FRIER: Commissioner Riley.  
25 MS. RILEY: No.



1 MS. FRIER: Commissioner Story.

2 MS. STORY: No.

3 MS. FRIER: Commissioner Turbeville.

4 MR. TURBEVILLE: Yes.

5 MS. FRIER: Commissioner Wilkinson.

6 MR. WILKINSON: Yes.

7 MS. FRIER: Commissioner Yablonski.

8 MR. YABLONSKI: No.

9 MS. FRIER: Vice Chair Scott.

10 VICE CHAIR SCOTT: No.

11 CHAIRMAN BENSE: And the final vote is 16 to  
12 eight against the amendment.

13 Okay. We are back on the proposal now,  
14 unamended. And how about if we take public  
15 testimony first. We have about eight or ten  
16 people scheduled for testimony.

17 Pat McConnell, you're recognized.

18 MR. MCCONNELL: I'll waive.

19 CHAIRMAN BENSE: Okay. Mr. McConnell waives  
20 his time. Ron Meyer. You're recognized,  
21 Mr. Meyer. You've been here all day. Take  
22 command.

23 MR. MEYER: Well, thank you for the  
24 opportunity, Mr. Chairman, members of the  
25 Commission. My name is Ron Meyer. I represent

1 the Florida Education Association, and I'm here to  
2 speak in opposition to Constitutional Proposal 30.

3 The Florida Education Association was a  
4 strong supporter of the class size amendment  
5 when it was proposed to the people in 2002.  
6 And we remain committed to the gains and  
7 benefits that the children of Florida in public  
8 schools have experienced as a result of the  
9 march towards smaller classes.

10 We don't believe, frankly, that this  
11 constitutional amendment is needed. And we  
12 don't believe that on a number of bases, and  
13 because of our belief that it's not needed, the  
14 Florida Education Association, along, I might  
15 add, with the Florida Association of School  
16 Boards and the Florida District School  
17 Superintendents, have been participating  
18 closely with Representative Simmons and the  
19 House of Representatives in crafting a measure  
20 that addresses the flexibility issue that first  
21 came up and first brought us to what is now  
22 Constitutional Proposal 30.

23 It's been said a lot today that the  
24 Article 9, Section 1 requires it to be the  
25 paramount duty of the State of Florida to make

1       adequate provision for the education of all  
2       children residing within its borders. But the  
3       constitution also defines what adequate  
4       provision shall mean. And it says it shall be  
5       made by law for a uniform, efficient, safe,  
6       secure and high quality system of free public  
7       schools.

8               And I think the word efficient in there  
9       means something in the context of the  
10      legislative fix that is being pursued through  
11      the Legislature to try to address the  
12      flexibility issue.

13             The proposal's also -- often referred to  
14      as the 19-student syndrome. What happens if we  
15      continue moving forward to the implementation  
16      of what the people asked for, that classes in  
17      K3 be 18, and four through eight be 22, and  
18      nine through 12 be 25? What happens when that  
19      19th student shows up in a K through three  
20      classroom? Does that mean that there's no  
21      alternative to a school district but to split  
22      the class, but to reject the student, but to  
23      transfer a student? What are the options that  
24      are there?

25             And we submit to you that the constitution

1 tolerates a legislative, practical fix. And I  
2 submit that to you not on my word, but on the  
3 word of the Florida Supreme Court, which  
4 considered the very issue when it addressed  
5 this amendment as it was being prepared to go  
6 to the constitution.

7 Let me quote from the decision. Rather  
8 than restricting the Legislature, the proposed  
9 amendment gives the Legislature latitude in  
10 designing ways to reach the class size goal  
11 articulated in the ballot initiative, and  
12 places the obligation to ensure compliance on  
13 the Legislature, not the local school boards.

14 This is not a numeric count imposed upon  
15 school boards. This was an amendment which  
16 required the people of Florida, in carrying out  
17 their paramount obligation, to fund adequately  
18 enough classroom space, enough teachers, enough  
19 alternatives to hit the goal of 18, 22, and 25.

20 What we've done in the Legislature is  
21 worked with Chairman Simmons and the  
22 stakeholders to craft a piece of legislation  
23 that just does that. It deals with the  
24 emergency or exigent flexibility need that  
25 might arise.

1           It says, basically, that school districts,  
2           as they plan to staff schools, should be  
3           mindful of and should have as their target goal  
4           the numeric goals in the constitution: 18, 22,  
5           and 25 students. But if in fact there's  
6           unforeseen circumstance, something that wasn't  
7           planned for, something that wasn't anticipated,  
8           there should be a mechanism to permit the  
9           school district at a public meeting to declare  
10          that there's a need for flexibility.

11          And before they get that flexibility, they  
12          first have to exhaust all of the alternatives  
13          that are currently in law to address class  
14          size. They have to look at team teaching.  
15          They have to look at reassignment. They have  
16          to look at virtual school. They have to look  
17          at all of the alternatives that presently exist  
18          to reduce the number back down to the numeric  
19          goals expressed by the people in the  
20          constitution.

21          But if they can't, if it just doesn't make  
22          good sense, if, I submit to you, as the  
23          constitution says, it's not efficient to remove  
24          students from the classroom, to split a  
25          classroom mid school year, to do something that

1       drastic, then, in fact, there ought to be a  
2       flexibility exception made to permit the school  
3       district, having exhausted all of the efficient  
4       and reasonable mechanisms to address the  
5       overage, to in fact finish out the school year  
6       with a slightly over the numeric number of  
7       students.

8               And what the legislation says, in K3 you  
9       could exceed by three students, in four through  
10      12 you could exceed by five students. So it's  
11      some parallel to what the constitutional  
12      proposal before you does, but what it does it  
13      simply requires a true-up each year to get back  
14      into the bounds, but provides statutorily the  
15      flexibility that's required.

16              We believe, having studied this carefully,  
17      having worked on it hard, having consulted a  
18      number of legal scholars, that this is  
19      tolerated by the constitutional provision. The  
20      constitution, the provision when it was  
21      enacted, was to provide funding. Adequate  
22      funding shall be provided to provide classroom  
23      space to meet these target goals. But it does  
24      not impose upon a school board the absolute  
25      mandate that there can be no flexibility if

1       those goals are exceeded. The statute fills  
2       the --

3           VICE CHAIR SCOTT: Let me interrupt for a  
4       second. I think we have some questions.  
5       Commissioner Turbeville, you have a question?

6           MR. TURBEVILLE: I've just got one that kind  
7       of follows up on your comments. Based upon your  
8       comments, we would conclude that the FEA would not  
9       challenge in court the house proposal as it  
10      currently stands and is being debated in the  
11      Legislature. Is -- I mean, is that correct?

12          MR. MEYER: Commissioner, the Florida  
13      Education Association came to the table in good  
14      faith, has been working with not only the  
15      stakeholders but with the legislative leadership  
16      to craft this proposal. We certainly endorse this  
17      proposal and endorse this proposal. We're not  
18      about to undo our own good work.

19          VICE CHAIR SCOTT: Okay. Further questions?  
20      If not, we'll give you a few seconds but you need  
21      to wrap it up.

22          MR. MEYER: Well, I just want to say that a  
23      vote no on CP30 is a vote really for the children  
24      of Florida's public schools. And I think it's  
25      what the parents expect. The parents in 2002,

1 when they set these numeric goals, believed that  
2 we were at least given a chance to achieving them.  
3 Here we are two years out from the time when we're  
4 supposed to be at the classroom level, fully  
5 implemented, and now we're going to just move the  
6 target up closer. That would make even Mr. Magoo  
7 blush about the nearsightedness.

8 We think that the better proposal is to  
9 allow this thing to go forward, to be  
10 implemented, to do what the people said that  
11 they wanted done in 2002, and if we need  
12 flexibility, and perhaps we do to do it  
13 legislatively, without putting it in the  
14 constitution.

15 Thank you very much, Mr. Chairman.

16 VICE CHAIR SCOTT: Any further questions?

17 Okay. Thank you. Thank you, Ron.

18 Next, Kenneth Blankenship. Welcome,  
19 Mr. Blankenship.

20 MR. BLANKENSHIP: Thank you. Good afternoon,  
21 Mr. Chairman and Commissioners.

22 My name is Kenneth Blankenship. I'm an  
23 11-year teacher at Land O'Lakes High School in  
24 Pasco County, the only A high school in Pasco  
25 County, probably not because of the great



1 teachers, but more likely because of the great  
2 students, like honorable Chairman Bense's  
3 son-in-law.

4 And I would also like to congratulate  
5 Chairman Bense on the birth of his new  
6 grandchild.

7 CHAIRMAN BENSE: Thank you. Great day.

8 MR. BLANKENSHIP: I'm here to speak against  
9 Constitutional Proposal 30 as a teacher. I can  
10 tell you that a class size of 25 students is much  
11 more manageable than a class size of 45 to 60,  
12 which I have had in the past. And that was before  
13 the class size was passed, with combination of  
14 regular ed students and exceptional students with  
15 disabilities.

16 Students learn better. They have more  
17 access to their teachers and the behavioral  
18 issues that were prevalent in the past are much  
19 more limited today than they were several years  
20 ago, due to the manageable class sizes.

21 Parents want their students in smaller  
22 classes, more manageable classes, not in the  
23 overloaded classes of the past. As a parent, I  
24 want my children to be in a class that the  
25 teacher can easily manage, and that they can

1 have access to their teachers without having to  
2 wait anywhere up to 10, 15 minutes because the  
3 teacher has 60 students to go to or -- the  
4 more -- the less students, the more manageable,  
5 and the easier it is to get individual care  
6 with our students.

7 This proposal retreats from a measure that  
8 provides improved discipline and safety in our  
9 public schools. Parents will be confused as to  
10 whether their child's classes meet the  
11 constitutional limits. The proposal backtracks  
12 from solid educational gains made by Florida  
13 students and educators, and this proposal lets  
14 politicians off the hook for paying for the  
15 cost of real class size reductions that were  
16 approved by the voters, and their  
17 responsibility is to their constituents.

18 And I urge you to reject this proposal as  
19 it would further harm public education. Thank  
20 you very much.

21 VICE CHAIR SCOTT: Okay. Thank you. Bill  
22 Montford.

23 MR. MONTFORD: Thank you, Mr. Chair and  
24 Commissioners. Again, Bill Montford, CEO of the  
25 Florida Association of District School

1 Superintendents, 208 South Monroe Street.

2 First of all, thank you for this  
3 opportunity to speak with you. You said  
4 earlier this morning it's hard to follow  
5 Speaker Rubio. It's also hard to follow Joe  
6 Pickens, especially when you know he's  
7 controlling our money.

8 (Laughter.)

9 Let me say just -- real brief -- that our  
10 attempt in support of this is not an effort to  
11 undercut the class size amendment, not at all.  
12 It's not a money issue either, to us. What it  
13 is is a fundamental issue of how we at the  
14 school level can best provide the educational  
15 opportunities for our students.

16 You know, it's -- let me remind you. I've  
17 been before you before. We had three school  
18 districts this year that averaged 18.01. Those  
19 three districts were penalized, not because  
20 somebody was out to hurt the school districts,  
21 but the fact is, they did not meet the 18. As  
22 I've said to you before, 18 is 18 and it's not  
23 18 points for one.

24 Also, what we're proposing here or  
25 supporting is not in opposition to the

1 legislative remedy that's going through to the  
2 Legislature at this time either. All of our  
3 stakeholders met at the table. We gladly  
4 worked with the school board association and  
5 our union colleagues and others, who all have  
6 the same purpose in mind, and that is to make  
7 the class size amendment work the way we  
8 believe the people of Florida wanted it to  
9 work.

10 We do not believe that anyone in Florida  
11 voted to have a 19th child to come to the  
12 school to have to go to the extraordinary  
13 efforts that we're having to go through now.  
14 As simple as some may want to make it seem, we  
15 have tried the remedies, we've done  
16 co-teaching, we have redistricted. We have  
17 done a number of things.

18 Now, some would say to us, well, if you  
19 know there may be an 18th child coming, then  
20 why don't you just schedule your classes so  
21 there are 17 in a class so you can have a fudge  
22 factor of another one that come in. That's  
23 real simple and it sounds simple.

24 The fact is, we can't afford to do that.  
25 The fact is we can't afford to hire a teacher

1       for one more student when they come in either.  
2       If you hire another teacher for the 19th child,  
3       you don't get funding for the whole teacher.  
4       You get a funding for that one child. We all  
5       agree with that, and we've all come to grips  
6       with that.

7               Again, this is not an attempt to let the  
8       Legislature off the hook. It's an attempt to  
9       let us at the school level implement the class  
10      size amendment in a way that we really believe  
11      is best for the children, which we believe that  
12      the people of Florida voted for.

13             Thank you, Mr. Chair.

14             VICE CHAIR SCOTT: Hold on just a minute.  
15      Let me ask you something, and a couple others have  
16      questions.

17             Ron Meyer says statutory fix should work,  
18      and reviewed the cases. Representative Pickens  
19      says, well, it might or it might not, but we  
20      want the constitutional, you know, insurance  
21      that it would.

22             How do you feel about that versus the idea  
23      of this going out on the ballot for sort of a  
24      change or -- of the class size amendment? You  
25      know, of some modification to the voters?

1           MR. MONTFORD: Quite frankly, school  
2           superintendents, principals and teachers and  
3           others are very trusting people. I heard Martha  
4           Barnett say today that she trusts the Legislature  
5           twice. We do too. We trust everybody. We also  
6           don't want to take a chance. We believe we got a  
7           better chance with two remedies than we do with  
8           one.

9           (Laughter.)

10          We have a tremendous amount of respect and  
11          admiration for what the Legislature is trying  
12          to do. Representative Simmons has done an  
13          excellent job of bringing people to the table.  
14          We hope it works, but if it doesn't, we need --  
15          we need this as a possibility as well.

16          I can't impress upon you the importance of  
17          being able to address this issue for the  
18          benefit of the children in the classes. Let  
19          me -- we have classes in our schools today with  
20          12, 14 in a class, and we do that for a very  
21          good reason, because those 12 to 14 children  
22          need that really, really small class.

23          Now, if we don't have some flexibility  
24          soon, then we're going to have to raise those  
25          classes to 18, just so we can bring some others

1 down to 18. And that's not what the intent is.

2 At least, we don't believe that's the intent.

3 VICE CHAIR SCOTT: If the Legislature passes  
4 something, though, I mean, you're going to  
5 implement it pending any court telling you not to,  
6 I assume? In your associa -- you-all will  
7 implement it?

8 MR. MONTFORD: Oh, yeah, absolutely.  
9 Whatever the Legislature passes, we're always glad  
10 to --

11 VICE CHAIR SCOTT: Good answer, especially  
12 since they're in session.

13 Representative Gelber has some questions.

14 MR. GELBER: Thank you, Mr. Scott.

15 Do you think the statutory fix that's  
16 being pushed through the House that allows you  
17 to basically calculate it at a date certain in  
18 the school year, but after that allows a 19th  
19 kid or 20th, whatever that scenario is, to sort  
20 of stay in the classes until the following  
21 year? Do you think that solves part of your  
22 problem?

23 MR. MONTFORD: Part of it, yes.

24 MR. GELBER: Follow-up?

25 VICE CHAIR SCOTT: Yes.

1           MR. GELBER: I mean, if we wanted to, we  
2           could easily do a fix, if it really was, to the  
3           constitution that says, creates three, does not  
4           exceed 18 students, add a date certain in the  
5           academic year. We could add that to each one of  
6           the sections, and that would solve the 19th kid  
7           scenario.

8           MR. MONTFORD: Well, it's according to what  
9           that date is.

10          MR. GELBER: At a date -- I mean, couldn't we  
11          put in the constitution at a date certain in the  
12          academic year, and the Legislature will pick that  
13          date just the way that bill is being done right  
14          now?

15          MR. MONTFORD: Well, it really wouldn't -- it  
16          would solve part of the problem, but it would not  
17          address the issue that we have today, as I  
18          mentioned before, with those small classes. By  
19          design, we have some very, very small classes in  
20          our schools, and we're in the red. Every year we  
21          schedule those we know the -- we're in the red.  
22          And so it wouldn't necessarily address those.  
23          What we have is a good amendment. It just needs  
24          some adjustments, and that's all we're asking for.

25          VICE CHAIR SCOTT: Further questions?



1 Further questions?

2 (No response.)

3 Thank you very --

4 MR. MONTFORD: If I may, Mr. Chair, we have  
5 also invited two superintendents, superintendent  
6 from a large urban area, Hillsborough County,  
7 Superintendent Elia is here. She's what we call  
8 one of the big seven, one of the big seven urban  
9 superintendents. We also have Calvin Stevenson --

10 VICE CHAIR SCOTT: Yeah, we've got them.  
11 We're going to call them next.

12 MR. MONTFORD: Okay.

13 VICE CHAIR SCOTT: Okay. Thank you.

14 MR. MONTFORD: I wanted to brag about one of  
15 them, if I might.

16 VICE CHAIR SCOTT: The next is one of the big  
17 seven here, MaryEllen -- how do you say your last  
18 name, Ela?

19 MS. ELIA: Elia.

20 VICE CHAIR SCOTT: Elia, Elia. Big seven,  
21 sounds like basketball leagues or whatever.

22 MR. MONTFORD: If I may, Mr. Chair, just tell  
23 you that one of the principals here, or Debbie  
24 Menard, is -- she's an A school for six years,  
25 she's met AYP in No Child Left Behind four out of

1 five years. She's absolutely good and all those  
2 super ones are trying to recruit her.

3 VICE CHAIR SCOTT: We got her here too.

4 MR. MONTFORD: I wanted you to know who she  
5 was.

6 VICE CHAIR SCOTT: All right. Thanks.

7 MS. ELIA: I'm not sure being named part of  
8 the big seven group is the best place to come. I  
9 appreciate the time to be here. Chair and  
10 Commissioners, thank you very much for hearing  
11 this issue.

12 As was pointed out, I'm MaryEllen Elia,  
13 superintendent of Hillsborough County schools,  
14 and I'm speaking to you today about the need to  
15 revise the class size reduction amendment  
16 passed in 2002.

17 You know, really in any area of reform,  
18 whether it's business, education, or even what  
19 we do in our own lives, we have to look at the  
20 changes that we've made. We have to evaluate  
21 those changes, and then, if necessary, revise  
22 them to do what they were intended to do. And  
23 until you begin implementing a change, you  
24 can't always anticipate what the outcomes are  
25 going to be.

1 I'm here to speak to you about some of the  
2 things that I really believe, and, in fact,  
3 know that the voters and parents never intended  
4 to cause by passing the class size amendment.

5 Representative Pickens is a great  
6 advocate, because he gets it. Many of you have  
7 talked about, as though you know the kinds of  
8 issues that we're facing, with parents and  
9 students and hard caps. So I think it's  
10 absolutely critical that we look at it from  
11 that perspective. And I would suggest to you,  
12 as I do often, as we're looking at issues,  
13 we've got to make sure we cover multiple ways.

14 So if the Legislature can do something and  
15 it doesn't get challenged in the courts and it  
16 stays in place, I'm fine with that. But if  
17 they can't, then we're going to need what  
18 you're going to be voting on today.

19 I want to start by saying, we have seen  
20 very positive results from the class size  
21 amendment. The intent of the amendment was to  
22 improve education for Florida's children, and I  
23 agree with Mr. Blankenship, the teacher from  
24 Pasco County who was just up here speaking to  
25 you, we've seen good things from them.

1           As we've implemented the class size  
2           reduction amendment and we move towards the  
3           final hard caps by classroom, we've identified  
4           some very serious unintended consequences that  
5           will affect the continuous improvement of  
6           Florida's educational system.

7           We really need flexibility to  
8           appropriately improve education. The rigid  
9           specification of class size caps by the Florida  
10          constitution is educationally unsound because  
11          it discourages the targeted use of resources to  
12          bring about the greatest learning gains.

13          I think if there's one thing you can  
14          remember: Kids are not numbers. You can't  
15          treat them like numbers. You have to look at  
16          them individually, and you have to make sure  
17          that you're meeting their needs.

18          Now, all of you know the 19th child  
19          syndrome, or example or scenario. I don't know  
20          if you've ever answered any calls that have  
21          come in from a parent of a kindergarten child.  
22          I just want you to visualize this. And those  
23          of you who, like I, had kindergarteners one  
24          day. You know when a kindergarten child gets  
25          into the classroom they're going for the first

1 time to school, many of them, and they identify  
2 with their teacher. And then you have a 19th  
3 child come, and you're going to end up breaking  
4 up that class.

5 I think it's important for us to realize  
6 that that is -- that is not the best thing to  
7 do for that child. It is probably not the best  
8 thing to do for any of the children when you're  
9 establishing a new classroom. And I think,  
10 most importantly, it's going to be very  
11 difficult for any of the school districts to  
12 find the quality of teacher in October or  
13 whatever date it is that we make that number  
14 come real for us.

15 So I think it's important to see that 19th  
16 child scenario is really critical. But there's  
17 a couple others I want to mention.

18 CHAIRMAN BENSE: If you could, a couple  
19 minutes, please.

20 MS. ELIA: Real quick.

21 CHAIRMAN BENSE: Thank you.

22 MS. ELIA: High school classes could be  
23 closed to students who move into an area after  
24 school's already started. We've had that --  
25 issues related to the advanced placement in

1 American History, where a student walks in,  
2 they're very talented, and they need to have the  
3 ability to be in that class. If it's at 25, we  
4 couldn't put them in there.

5 Some courses are purposely small, and Bill  
6 Montford mentioned those. But I think that's a  
7 critical piece too, because, again, looking at  
8 students one by one, if they have special  
9 needs, we need to follow that.

10 And in Algebra I in middle school, you put  
11 a child in Algebra I because you know they have  
12 the ability. And you work really hard, but you  
13 have to have a fail-safe for that student and  
14 have to have a place for them to go if it's not  
15 successful.

16 So, in Hillsborough County we've done the  
17 things that were mentioned. We've rezoned  
18 schools. We've increased teaching loads, and  
19 we're now teaching six out of seven. We've  
20 expanded virtual schools, and we've used the  
21 co-teaching model. But the reality is, even  
22 though it was good for instruction, it reduced  
23 class size, it allowed flexibility up to this  
24 school averaging, to put us right now in a  
25 position of having to go class by class will

1       affect students.

2               And we need to think of students, their  
3       instruction, and their success. Thank you very  
4       much. I appreciate this opportunity.

5               CHAIRMAN BENSE: Thank you for traveling all  
6       the way up here. We appreciate that.

7               Calvin Stevenson. Welcome, Mr. Stevenson.

8               MR. STEVENSON: Thank you, sir, Mr. Chairman.  
9       Calvin Stevenson, superintendent of schools from  
10       Washington County, which is --

11              CHAIRMAN BENSE: My world.

12              MR. STEVENSON: Both of your world, yes, it  
13       is. 652 3rd Street in Chipley, Florida.

14              I'm here in support of the amendment, but  
15       mainly I'm here in support of the children.  
16       That's what this should all be about. We've  
17       been hassling about money. But we need to  
18       hassle about, what is the best thing for your  
19       child, your child, or your grandchild. That's  
20       what it's about.

21              You've had the experts come before you and  
22       they've told you, we don't need to be dividing  
23       classes. We need flexibility. We need the  
24       opportunity to be able to provide the best  
25       education for these kids. We trust you. We

1 ask that you trust us.

2 You've already been spoken to from one  
3 gentleman who said he used to have 60 in his  
4 class and he's down to 25. I can remember back  
5 in the day we would have 30 in a first grade  
6 class. Some of them are lawyers, some of them  
7 are doctors, some of them are surgeons, some of  
8 them -- they've done well.

9 This is -- this amendment is outstanding  
10 for our kids. We support it, but we support  
11 the flexibility. We need that flexibility.  
12 And ask for your support too. For the kids,  
13 not for us, but for the kids.

14 CHAIRMAN BENSE: Thank you, Mr. Stevenson.  
15 Debbie Menard, principal, from Jacksonville  
16 Florida. Welcome to the Commission, Ms. Menard.

17 MS. MENARD: Thank you. My name is Debbie  
18 Menard, and I'm principal at Twin Lakes Academy  
19 Elementary in Jacksonville, Florida, located at  
20 8000 Point Meadows Drive.

21 I would just like to make you aware of  
22 some of the consequences and ramifications at  
23 the school level that we're experiencing. Our  
24 enrollment as of today is 1,125 students, with  
25 very a diverse student population. We have our



1 English language learners speaking over 41  
2 different languages at our school.

3 And by the way, our capacity of the  
4 building is only 962. We are already 163  
5 students over capacity. Our projected  
6 enrollment for next year is 1,162. That is 200  
7 students over capacity. Our school is  
8 landlocked and located in a high growth area.  
9 We have added six portables, taking up some  
10 very valuable playground space.

11 We have very strict time schedules for  
12 teachers to take their students outside to  
13 ensure that we meet the 30-minute-per-day PE  
14 law. Our PE coach only sees the kids one day a  
15 week. The teacher is responsible for the other  
16 four days.

17 In order to meet class size reduction,  
18 we've had to continually add teachers, and  
19 we're already over capacity. We have 50  
20 classrooms and 63 core classroom teachers.  
21 That gives us 13 co-teaching situations. That  
22 means 36 students and two teachers crammed into  
23 a room where space is tight.

24 We're using every nook and cranny of our  
25 building. I've converted the music room into a

1 co-teaching classroom, and I've taken the  
2 combustible storage closet and made it into our  
3 music room. I've taken custodial closets and  
4 transformed them into places where my speech  
5 teachers can meet with the kids. All of the  
6 rooms built for use in the media center are now  
7 being used by other teachers in our school.

8 Teachers are meeting in hallways at small  
9 tables because we have no space. Space is a  
10 valuable commodity at Twin Lakes, and it's an  
11 endangered species.

12 How can we meet class size reduction when  
13 it goes teacher by teacher and class by class?  
14 Will every classroom have to be a co-teaching  
15 situation? Remember, we have no room to build  
16 and we're landlocked.

17 Another huge issue is the mobility of our  
18 students. Thus far this year we have had 300  
19 in and out students. That's larger than some  
20 elementary schools in the State of Florida.

21 And what do we do, how do we handle this  
22 with that fluctuating population? When we get  
23 to that 19th case scenario, what do we do?  
24 When you can take two -- when you have a family  
25 that comes in to enroll three students and I

1 can take two of the kids but I don't have room  
2 for the third child, what do I do?

3 Do we have to continually change classes,  
4 splitting classes, constant disruption? Is  
5 that good for kids? I don't think that was  
6 meant by the class size amendment.

7 We've made consistent progress, which I  
8 think is good. We're for the class size  
9 amendment. My teachers like that. You know,  
10 we like that. When we -- in this day and age  
11 we have to meet each child's learning style,  
12 differentiated instruction, data-driven  
13 instructions, child by child.

14 Now, one of the other ramifications is,  
15 all the money is going into the classrooms. We  
16 now have no support personnel. We have no  
17 paraprofessionals. We barely have enough  
18 paraprofessionals to cover the a.m. and p.m.  
19 bus duty, a.m. and p.m. car riding duty,  
20 breakfast duty, lunchroom duty, which begins at  
21 10:40 and ends 1:40. We're scrambling to cover  
22 duty.

23 The kindergarten classes had full-time  
24 paras. Now they're down to two and a half  
25 assistants in their classrooms. And

1 kindergarten teachers are mandated to do  
2 individualized testing by the State of Florida,  
3 like DIBELS, which is testing nonsense words  
4 and phonics and oral reading fluency. And we  
5 have -- oh, DRA, which is Development Reading  
6 Association.

7 We have ECHOS, ERDA and this has to be  
8 done one student at a time, and we have no  
9 assistants to keep the kids in the class, and  
10 we have no money to hire assistants for them to  
11 do it. And we are trying so hard. I have the  
12 best teachers in the world. They are working  
13 to educate the children.

14 Like I said, we're an A school six years  
15 in a row, and we've met AYP, and we will  
16 continue to do that.

17 I have notes here, but I know we've got to  
18 cut it short. I'm just asking for your support  
19 in Proposal No. 30 for the flexibility. Please  
20 let us be the professionals and manage our  
21 schools and continue to do the best for our  
22 kids, because that's what it's all about.

23 I want to remind you, the lack of  
24 infrastructure -- oh, the lack of highly  
25 qualified teachers. Ladies and gentlemen, the

1 State of Florida universities cannot produce  
2 the number of teachers we need in the  
3 classrooms. Are you telling me, because a  
4 teacher -- now we can certify a person who has  
5 a degree in anything and can pass the education  
6 test and they can come into my classroom and  
7 they're fully certified.

8 So are you telling me that teacher with 18  
9 kids is going to be better than the teacher,  
10 highly qualified, with 22 students? I don't  
11 think so. We can't even meet our high teaching  
12 demand, folks. I beg you to help us, because  
13 we are doing the best we can with what we have.  
14 We are asking our teachers to do more and more  
15 with less and less.

16 And if they have to do all the duties and  
17 all of the teaching, I think the class size  
18 amendment at this point, when we get class by  
19 class and teacher by teacher, is going to have  
20 the reverse effect, and not by my teachers  
21 wanting that, because we want to do the best  
22 for kids.

23 So, please, I ask you, we want to prepare  
24 our students to be successful in this global  
25 economy. We are preparing them for jobs that

1 do not yet exist. Please help us to continue  
2 educating our students by allowing us maximum  
3 instructional time and some flexibility.

4 Thank you for your time.

5 CHAIRMAN BENSE: Thank you, Ms. Menard.

6 I think it's Darvin Booth? Mr. Booth, I  
7 hope I didn't chop your name up too bad.  
8 You're welcome to the Commission.

9 MR. BOOTH: No, sir, you said it exactly  
10 right.

11 CHAIRMAN BENSE: How about that? First time  
12 I --

13 MR. BOOTH: My name is Darvin Booth. I'm  
14 currently the director of governmental employee  
15 relations for Seminole County schools. I was the  
16 proud principal of Lake Brantley High School in  
17 Seminole County until March 2006, completing my  
18 29th year as high school principal in that one  
19 school.

20 I must tell you that I am speaking in  
21 support of this amendment that's being  
22 discussed now. In the interest of your time, I  
23 believe all the points that have been made are  
24 accurate and online -- on point for high  
25 schools. How do we handle the mobility

1 situation if you have hard caps?

2 We have -- when you -- although you may  
3 balance in mobility, just because a student  
4 leaves who was in calculus doesn't mean the  
5 next one will come back and fill that slot.  
6 There are no perfect matches there.

7 We need small classes -- we need many  
8 classes much smaller than 25 in a high school.  
9 So the hard cap will make every class 25 before  
10 the end result is there.

11 Please give -- please consider this as an  
12 opportunity to give principals and teacher  
13 flexibility on school levels to meet the needs  
14 of students and avoid rationing of scarce class  
15 resources from students. Thank you very much.

16 CHAIRMAN BENSE: Thank you, Mr. Booth.

17 Last, Wayne Blanton. Wayne, you've been  
18 here --

19 MR. BLANTON: I waive my time.

20 CHAIRMAN BENSE: Okay. Had all the fun you  
21 can stand, huh?

22 Also, anyone else from the audience wish  
23 to -- come on up.

24 MR. SCHRODER: I promise I won't be back on  
25 the 26th or 27th.

1 CHAIRMAN BENSE: Okay.

2 MR. SCHRODER: My name is Don Schroder,  
3 again, and thank you very much, Chairman.

4 I have been up -- this will be my third  
5 time up here, and it's because I come from a  
6 small community. I helped build our elementary  
7 school. We have a 50-year-old elementary  
8 school we rebuilt. We have 300 students.

9 And on my way up here I've worked -- I've  
10 been privileged to work with the school  
11 superintendent on his core needs task force for  
12 the last four years. And one of the things  
13 both he and our chief financial officer said,  
14 please speak in favor of CP30.

15 They do need the flexibility, even in our  
16 school. Manatee school district has gone  
17 through a metamorphosis in the last four years.  
18 We've changed our curriculum. We've changed  
19 the mental state of everybody from the  
20 custodians through the bus drivers through the  
21 teachers to the administration staff. But they  
22 need the flexibility, every school.

23 What we're really trying to do through  
24 flexibility is give the kids a chance. We  
25 don't need the 19th syndrome. We've had -- in



1       our school out on Anna Maria, we've had  
2       families move in with three and four kids, and  
3       if we're locked in at a grade, what do we do?

4             The last -- the principal was correct. We  
5       don't have the flexibility. We pay the  
6       teachers. We pay the superintendents. Let's  
7       give them the opportunity to run their business  
8       the way you would run your business, and let's  
9       not dictate to them that they can't have what  
10      they need.

11            We're only looking at up to five students  
12      in one case. In K through -- K through three,  
13      I think it's two students. Four through --  
14      four through 12, it's five. That's not asking  
15      for too much, and I think it really works and  
16      gives the teachers and the superintendent and  
17      the administrative staff the opportunity to  
18      make a better school.

19            Thank you very much, sir. Appreciate your  
20      time.

21            CHAIRMAN BENSE: Okay, Mr. Schroder. Thank  
22      you.

23            Lastly, Representative Pickens has asked  
24      to speak on the bill. We asked him some  
25      questions on the amendment. So Representative

1 Pickens, you're recognized.

2 MR. PICKENS: Thank you very much. I will be  
3 brief, for me.

4 (Laughter.)

5 I really do appreciate all of the -- all  
6 of the dialogue. And first of all, I say to  
7 Commissioner Barnett who offered the amendment,  
8 it's always -- it's always a joy to see someone  
9 who wants to get there and who's trying to  
10 offer up, you know, something that gets her  
11 there on this very important thing.

12 And to Commissioner Martinez for his  
13 willingness to accept the amendment, you know,  
14 if it will -- if it will help get this thing to  
15 a ballot.

16 My -- my plea of you today is, in your  
17 good conscience, each of you individually, do  
18 this job. And I -- I respectfully would  
19 suggest that your job is not to vote based  
20 upon -- or a hope that you can bet on the come,  
21 that the Legislature will do something that is  
22 marginally acceptable to just about everybody,  
23 but might not be to a court down the road,  
24 because legislative corrections could get  
25 caught up in philosophical differences over the

1 next six weeks, it could get caught up in  
2 political differences over the next six weeks.  
3 It could get caught up in a lot of things, and  
4 then after that it could get caught up in a  
5 court of law. It may not and I hope it  
6 doesn't.

7 And so I'd ask you to consider that this  
8 is your window of opportunity on this  
9 incredibly important issue. This is your bite  
10 at the apple. I will always respect each  
11 individual commissioner's choice to not take a  
12 bite of this apple. But have your vote be for  
13 that, not because you hope the Legislature is  
14 going to bite it for you.

15 And in that respect, I would ask you to  
16 please support Commissioner Martinez and me and  
17 all of these school personnel that were here,  
18 so that my wife who teaches middle school can  
19 in fact have just what they said. Her  
20 intensive reading class can be 15 students, and  
21 the class that she has to compensate for that  
22 can be 24 or 25, rather than -- just as what  
23 they said, because the Simmons proposal doesn't  
24 allow you to do that.

25 You have to true up, and then afterwards

1       you might can move some students around, but  
2       this, you know, this allows a great deal of  
3       flexibility.

4           More importantly, one thing hadn't been  
5       talked about is, I believe in 2010, 2011, if we  
6       don't do something, by the reading of the  
7       constitution, team teaching and co-teaching  
8       goes away. We need a statutory correction to  
9       interpret our implementation bill. But team  
10      teaching and co-teaching, especially in the ESE  
11      model, I believe is prohibited by the current  
12      language of the constitution. That would be a  
13      tragedy as well.

14           So thank you for your indulgence on two  
15      times, Speaker Bense. And again, I would ask  
16      that you support the amendment. Thank you.

17           CHAIRMAN BENSE: Thank you, Representative  
18      Pickens.

19           MR. PICKENS: May I also -- one thing?

20           CHAIRMAN BENSE: You're recognized.

21           MR. PICKENS: Please, my leaving this meeting  
22      and not listening to your debate is not out of  
23      lack of interest or disrespect. I have another  
24      meeting at 5 o'clock. But I can assure you that I  
25      lament missing what I know is going to be an

1       excellent, thoughtful debate on this issue. So I  
2       apologize for having to excuse myself.

3               CHAIRMAN BENSE: Thank you, Representative  
4       Pickens.

5               Okay. Let's move into the debate phase of  
6       Representative -- of Commissioner Martinez's  
7       bill. We're in debate. I think we've gone  
8       through questions. We haven't gone through  
9       questions yet? I get confused. Let's go  
10      through the -- sure. Okay. Commissioner  
11      Gelber, you're recognized.

12              MR. GELBER: Thank you, Speaker Bense. I  
13      just had -- this is the first -- I'm sorry. I'm  
14      new, and I've been pretty quiet today.

15              (Laughter.)

16              I'm not speaking yet on the bill, so --  
17      but let me -- I do want to raise a --

18              MR. MARTINEZ: Mr. Chairman? A point of  
19      information. Didn't Representative Pickens ask  
20      Representative Gelber to go with him?

21              (Laughter.)

22              MR. GELBER: Nice try.

23              I do want to just -- this is the first  
24      constitutional amendment that we're doing that  
25      someone arguably could say is not in the

1 heartland of the mandate of Section 6 that  
2 governs this budget reform commission, so I  
3 would simply ask you if somebody could put on  
4 the record, this is not a -- whether or not why  
5 this is a revision of the constitution that  
6 deals with taxation and the state budgetary  
7 process, so that this record can reflect the  
8 basis for which, why we're getting into class  
9 size.

10 CHAIRMAN BENSE: Well, I'm going to allow  
11 Mr. Goodlette to answer that question, or staff.  
12 But before he addresses that, to give him time to  
13 collect his thoughts, clearly the class size  
14 amendment issue affects our budget. If it is  
15 scaled down somewhat or made more flexible as  
16 we're talking about today, that frees up more  
17 dollars for our budget, be it the education budget  
18 or whatever budget that might be out there.

19 So I think the records need to reflect the  
20 fact that clearly the class size amendment does  
21 reflect the budget, but I will let my -- our  
22 lawyer, Mr. Goodlette, take a stab at making  
23 sure we have it on the records in a proper  
24 manner.

25 You're recognized, Mr. Goodlette.

1           MR. GOODLETTE: Thank you. Thank you,  
2           Mr. Chairman. And I'll try to be brief.

3           Under Section 6, Taxation and Budget  
4           Reform Commission, one of the things we're  
5           constitutionally permitted to do is examine the  
6           constitutional limitations on taxation and  
7           expenditures at the state and local level.

8           And this constitutional proposal, over  
9           on -- and this is, again, 0030, Section 1,  
10          subsection -- after the subsection three,  
11          relates to the following: The payment of costs  
12          associated with reducing class size to meet  
13          these requirements is the responsibility of the  
14          state and not of local school districts.  
15          Beginning with 2003, 2004 fiscal year, the  
16          Legislature shall provide sufficient funds to  
17          reduce the average number of students in each  
18          classroom by at least two students per year  
19          until the school average class size for each  
20          year of the grade groupings does not exceed the  
21          requirements of this subsection.

22          That relates to Taxation and Budget, and  
23          for those reasons, we think it's clearly within  
24          the confines of the mandate of Article 11,  
25          Section 6.

1           CHAIRMAN BENSE: Commissioner Mathis, you  
2           have comments as well?

3           MS. MATHIS: I have a question.

4           CHAIRMAN BENSE: You're recognized.

5           MS. MATHIS: I was feeling okay about the  
6           proposal until our last speaker talked about the  
7           fact that you could have one classroom with 12  
8           students and another classroom with 23. I'm  
9           concerned because I would see schools maybe having  
10          students who are slower learners in larger  
11          classes, which goes against, I think, the spirit  
12          of the class size amendment, and have the gifted  
13          students in the small 12-person classes. So I'm  
14          concerned about the equity in the distribution of  
15          students under your proposal, and I'd just like  
16          somebody to talk about that directly.

17          CHAIRMAN BENSE: Okay. Let's put that on  
18          hold for just one second. Any more comments  
19          regarding the class size amendment and its  
20          relevance to the budget? Commissioner Barnett.

21          MS. BARNETT: Mr. Chair, I'll let the record  
22          reflect, I did my very best to make this a budget  
23          item for everybody.

24          (Laughter.)

25          CHAIRMAN BENSE: I think it still is. You



1       may want to hone it in and make it a bit more  
2       narrow.

3               Okay. We've addressed your question okay,  
4       Commissioner Gelber?

5               MR. GELBER: Yes.

6               CHAIRMAN BENSE: Great. Since we're in the  
7       question phase, Commissioner Martinez, can you  
8       address Commissioner Mathis's question?

9               MR. MARTINEZ: You know -- Mr. Chairman,  
10      thank you. I could, but I think if I were to let  
11      the educational professionals, perhaps the  
12      superintendent from Hillsborough, MaryEllen, if  
13      you could come up.

14              And by the way, Mr. Chairman and  
15      Commissioners, this lady is a terrific  
16      educator, one of the very best in the country.

17              CHAIRMAN BENSE: Great.

18              MR. MARTINEZ: We're very lucky to have her.

19              CHAIRMAN BENSE: State your name and address  
20      again for the records, please. You're welcome.

21              MS. ELIA: MaryEllen Elia. I'm the  
22      superintendent of Hillsborough County schools.

23              And I think your -- concern I think is  
24      very valid. However, what you're seeing in --  
25      across the state of Florida, and a kind of

1 improvement that we're seeing, is that we have  
2 to look at every student individually.

3 And what we're finding in Hillsborough  
4 County is when we have an intensive reading  
5 class that is smaller, that as we are going  
6 into the two class -- two students less each  
7 year that we've added and now we're at the  
8 school averages, you still would keep within  
9 the school averages, but you'd have some  
10 flexibility of one, two, up to five students  
11 perhaps that you would then be able to have in  
12 a class.

13 And it's not so much that we want to have  
14 the ability to have fewer students in a class  
15 that's a higher level class; although, that is  
16 an issue. The real issue is that we want to be  
17 able to take every student's -- their needs,  
18 put them in the right class with the right  
19 number of kids. And to do that, we need  
20 flexibility. Thank you.

21 CHAIRMAN BENSE: That help?

22 MS. MATHIS: Yes, it does.

23 CHAIRMAN BENSE: Further questions? Further  
24 questions of the sponsor of the proposal.

25 (No response.)

1           Then let's move to debate. Let's see how  
2           many folks want to debate this. Let's start --  
3           raise your hand if you intend to debate. Yeah,  
4           it's 5 o'clock. I know what's going on.

5           (Laughter.)

6           Gelber, Martinez, McKay. Good. Well, I  
7           thought several hands would go up. We'll just  
8           play it by ear.

9           Starting off with Commissioner Gelber,  
10          you're recognized in debate.

11          MR. GELBER: Thank you. And it was -- I was  
12          quiet today for this debate, because I actually --  
13          I'm not sure we should be doing this, honestly. I  
14          think restraint sometimes is the better part of  
15          valor. And while this may technically -- arguably  
16          it's only technically -- come within the budgetary  
17          process, understand something: If this comes  
18          within the budgetary process, there's absolutely  
19          nothing that happens in the State of Florida --  
20          every criminal law implicates the budgetary  
21          process. It would not come within the scope of  
22          this Commission, and there is a Constitutional  
23          Revision Commission that has scope that clearly  
24          would -- would calculate this concept.

25          But let me get to really the merits,

1       because I think on the merits this is a bad  
2       idea. First of all, it will cut at least a  
3       billion dollars from the education budget going  
4       forward.

5               Now, I understand -- and by the way, I  
6       have a great amount of respect -- there's a  
7       whole lot of budget chairs who appeared before  
8       you who are members and presiding officers.  
9       Most of these folks, other than a little blip  
10      after 9/11, it was only half a billion dollars,  
11      which is a little blip compared to what we're  
12      looking at now, we had largesse over the last  
13      few years. We were able to fund education at a  
14      level that we thought.

15             We're going to be cutting one point  
16      something billion dollars out of education this  
17      year. So -- and there's going to be healthcare  
18      needs. There's going to be a huge slog for the  
19      next couple years.

20             And the idea that we are going to be  
21      voting to put something on the ballot that  
22      would take at least a billion dollars out going  
23      forward is, to me -- it doesn't make sense for  
24      people who care deeply about education and  
25      don't want to see it lose the funding that

1 really the class size amendment almost  
2 force-fed into it.

3 But I want to talk about this 19th child  
4 scenario, because I think there's been a lot  
5 said about that. If you wanted to take care of  
6 the 19th child, I think you could do it by  
7 statute. I think that's what the lawyer said  
8 who argued this initially before the Supreme  
9 Court.

10 But you could also do it by constitutional  
11 amendment. You could do a constitutional  
12 amendment that simply adds the following  
13 phrase: Here are the class limits at a date  
14 certain in the academic year. That would solve  
15 the 19th kid scenario. It would resolve all  
16 the issues of conflict that are out there.

17 But we aren't doing that. What we're  
18 saying is, take schoolwide averages, take  
19 schoolwide averages and add five to them.

20 So, for me, this is a very simple vote. I  
21 have a fourth grader, and I have a second  
22 grader. I have two kids in public schools. My  
23 fourth grader absolutely will be in a class of  
24 27. No question. She's in a class of 27 right  
25 now. Why? Because they have schoolwide

1 averages, as my second grader will be in a  
2 class of 23. That is exactly what will happen.

3 The reason why superintendents don't like  
4 it, and principals, is it creates all sorts  
5 problems in figuring out the size of the  
6 classes, and they do want to put smaller  
7 classes for some kids and bigger classes for  
8 others. But frankly, I don't want my kid in a  
9 class of 27 so that somebody else can be in a  
10 class of 16 or 15 or 14.

11 That may be terrific for some people, but  
12 are you really going to expect the parents in  
13 the State of Florida to say, I'm for this,  
14 because although my kid's got to be in a bigger  
15 class, some other kid will be in a smaller  
16 class.

17 That's not what people wanted. They  
18 really wanted this to be a hard cap. And if  
19 you -- at least a cap that was funded at the  
20 level exactly the way the folks had proposed it  
21 suggested. You can solve that 19th kid easily  
22 in the constitution without adding five to  
23 classes.

24 And trust me, in my elementary school and  
25 in many elementary schools you will have 27 and

1       you will have 16. That's exactly what you will  
2       have all over the place, because it's easier  
3       for administrators to calculate the kids in the  
4       classroom if they have that flexibility. But  
5       the fact that it's easier doesn't make it  
6       better.

7               When Commissioner Riley takes people  
8       around -- and she hears it all the time. They  
9       all want to know about class size. And I  
10      brought this up in a Commission meeting. You  
11      know, I thought about this plan a lot.

12             I went online to look at what private  
13      schools look at and what they advertise for  
14      with their -- you know, for their children. Go  
15      do it. Go online. Put in private schools and  
16      put them in your neighborhood. You know what  
17      you're going to see, the very first thing each  
18      one of those advertisements said, small  
19      classrooms. Eight, 12, 13. It's unbelievable.

20             And here we are saying to the kids who are  
21      in the system we think should compete with  
22      private schools, you -- it's okay to have a  
23      fourth grader in a class of 27, because we're  
24      going to have a fourth grader in a class of 18.  
25      That's exactly what we're saying, and that

1 makes no sense to me.

2 Look, I understand, and, in fact, the  
3 proponent of this is one of my favorite people  
4 in the whole world. And I mean that. I worked  
5 for him and -- fortunately not anymore because  
6 I wouldn't be speaking right now if I did.

7 (Laughter.)

8 But I just think that this is -- I mean, I  
9 think what we did this morning was in the  
10 heartland of what you're supposed to do. But  
11 this is an end around the class size. We could  
12 easily fashion something that deals with the  
13 19th kid.

14 I think and the lawyers who argued to the  
15 Supreme Court for it initially say that the  
16 statutory remedy is there. If you don't want  
17 it, we can do it by constitutional remedy. But  
18 what we shouldn't do is put something on the  
19 ballot that I think is going to be a disservice  
20 to children.

21 I don't think -- and by the way, it's  
22 going to fail at the polls. I know  
23 administrators don't like it. I know  
24 principals don't like it because it makes it  
25 hard to calculate classes.



1           You talk to everyday teachers and everyday  
2           parents, and they all know. They like -- the  
3           first thing that's asked in every orientation,  
4           and I've been to a bunch of them. First hand  
5           goes up, how many kids are in your class? And  
6           I harken back to my first kindergarten  
7           orientation a couple years ago for my second  
8           grader. When we're all sitting there and she  
9           was explaining the sequence of events during  
10          the day, she said, you know, at 10 o'clock we  
11          all go wash our hands in that little bathroom.  
12          And then she said, my goodness, I only have 18  
13          kids. We're going to get to do more special  
14          things with your kids this year. I remember  
15          her thinking of that, not knowing who I was or  
16          why I was sitting there, other than as a  
17          parent.

18                 That's what people want for their kids.  
19                 So this really does emasculate the class size  
20                 amendment in an unnecessary and gratuitous way.  
21                 If you want to fix the 19th kid, we can do it,  
22                 and I think the Legislature can do it, and I  
23                 think we can do it in this Commission. But to  
24                 do more than that I think is a disservice to  
25                 the will of the people and to parents and

1 teachers all over the State of Florida. Thank  
2 you.

3 (Applause.)

4 CHAIRMAN BENSE: Thank you. Commissioner  
5 McKay, you're recognized in debate.

6 MR. MCKAY: Well, just as somebody said  
7 earlier today, they didn't want to follow the --  
8 Speaker Rubio, I'm not sure I want to follow  
9 Representative Geller, but I do believe --  
10 Gelber -- that Gelber is a very good speaker.

11 MR. GELBER: I didn't want to spank you.

12 MR. MCKAY: Yeah, I'm not going to spank you.

13 (Laughter.)

14 Trying to pass a citizen initiative is an  
15 extraordinarily difficult thing. And the  
16 proponents of the original class size  
17 amendment, the one that's on the books now,  
18 went to great lengths to get it passed.

19 I think to pass this would be  
20 disrespectful of those efforts. I don't think  
21 we ought to go back -- whether it's the  
22 Legislature or this body -- to go back to the  
23 voters and say, I double-dog dare you to tell  
24 me you really meant what you said to me the  
25 first time.

1           This isn't a child's game. And if there's  
2           a possibility for a legislative fix, it ought  
3           to be done at a legislative level. There's no  
4           doubt in my mind that the proponents of the  
5           original class size amendment will raise vast  
6           sums of money in order to make sure that this  
7           goes down to defeat.

8           And a broader concern that I have is that  
9           when this goes down in defeat, it could color  
10          every other proposal that comes out of this  
11          body, because there's going to be a blanket  
12          endorsement one way or another on the proposals  
13          that come out of this body.

14          I think it is a -- it would be a mistake  
15          to go back to the voters and say, did you  
16          double-dog dare what you meant?

17          CHAIRMAN BENSE: Okay. Further debate,  
18          members? Further debate? Commissioner Riley,  
19          you're recognized in debate.

20          MS. RILEY: Thank you. I think that the  
21          people do deserve a second chance.

22          When this amendment passed, we didn't have  
23          the outcry from the people about their property  
24          taxes. And when this amendment passed, I don't  
25          believe that the people realized the effect

1       that it was going to have on their pocketbook.

2               If this is not a good amendment, not a  
3       good proposal, then the people will vote it  
4       down again. But I would like to give them the  
5       opportunity to take a look at this and to -- to  
6       tell us, did you mean to be so specific? Did  
7       you mean to be so inflexible?

8               And so I -- kind of thinking that we will  
9       hear, if everything -- if the people vote it  
10      down, then they vote it down. But I would like  
11      to give them an opportunity.

12              CHAIRMAN BENSE: Commissioner Miller, in  
13      debate.

14              MR. LES MILLER: Thanks, Mr. Chairman. I  
15      wasn't going to say anything, but now I feel  
16      compelled to say something.

17              When I came to the Legislature in 1993  
18      there was much talk about class size amendment,  
19      and the Legislature continuously -- Democrat  
20      and Republican -- continuously fought it down,  
21      fought it down, fought it down, fought it down.

22              Kendrick Meek decided -- Kendrick Meek  
23      decided, everybody, we got to do something  
24      about this. We're going to take it to the  
25      people. And he worked hard, and I was out

1       there with him. We were going away from family  
2       up and down the road trying to make sure the  
3       class size amendment was going to pass.

4               Regardless of the percentage it passed by,  
5       the people spoke. They said, we want smaller  
6       classrooms and, State Legislature, you figure  
7       out how to pay for it.

8               There was any number of figures how much  
9       it was going to cost us. 20 billion, 27  
10       million, I mean, you're reaching the sky and  
11       there was all kind of money put out there, and  
12       how much it was going to cost for class size.

13              But the people spoke. They said, we want  
14       smaller class sizes. I think that the people  
15       still going to speak and say, why you bringing  
16       this back to us? We decided we wanted a  
17       smaller class size. You figure out how to pay  
18       for it. That's the bottom line.

19              Now, I understand from the experts, and my  
20       superintendent is here. She's a great  
21       superintendent, believe me, but on this one I  
22       got to disagree with you. I know you sit there  
23       and say that one child makes a difference, and  
24       I understand that. But the fact of the matter  
25       is, is that the people want smaller classes.

1           And if you take it back to them now, are  
2           you slapping them in the face, saying, you  
3           don't know what you're talking about. You  
4           don't know what you're talking about.

5           We threw -- they were thrown everything  
6           that could have been thrown at them, and almost  
7           the kitchen sink, saying, don't vote for this.  
8           And they said, I don't care. I want smaller  
9           classes in the state. I want it to remain  
10          smaller classes.

11          And believe me, if this went to the  
12          ballot, there will be tons of money, just like  
13          Senator McKay said. Senator McKay said, there  
14          will be tons of money to defeat this. And some  
15          of us will be right out there with them raising  
16          money. Some of us worked very hard to put this  
17          class size amendment on the ballot. And I am  
18          not -- I don't want to be the one to tell the  
19          public, you don't know what you're talking  
20          about, because I believe they knew what they're  
21          talking about. And I still think they know  
22          what they're talking about, and this should not  
23          happen.

24          The lawyers are saying we can do this  
25          through statute -- statutory process. Let's

1 try it and see what happens. But this is not  
2 the time and place for us to be doing this.

3 In all due respect, Madam Superintendent,  
4 I love you to death. I can't support it. I  
5 just cannot do it.

6 CHAIRMAN BENSE: Further debate? Further  
7 debate? Commissioner Story, you're recognized in  
8 debate.

9 MS. STORY: I appreciate all the speakers,  
10 especially teachers and principals and  
11 superintendents.

12 I guess the concern I have is that we give  
13 them a huge responsibility to educate our  
14 children, and we tell them what we want them to  
15 do and then we tell them how we want them to do  
16 it, even if it may not be the best way to do it  
17 in all cases. And I just think that sometimes  
18 we need to defer to those who are responsible  
19 for making this happen, for having our children  
20 educated in the best way possible.

21 I do know that there was the amendment and  
22 it passed. I know there are other amendments  
23 that when -- one amendment in particular had  
24 the second bite. People said, when I voted, I  
25 didn't realize what I was voting.

1 I don't see this as taking away the class  
2 size amendment. I see it as not the difference  
3 in 25 and 65. It's a difference in 25 and 30.  
4 And what I heard from district superintendents  
5 and principals is, you know, just give us the  
6 flexibility, and we'll educate your children.

7 I am very concerned that we're putting so  
8 much on them and telling them how we want them  
9 to do it, that we're going to put them in a  
10 situation where they're not going to want the  
11 job anymore, because we're giving them an  
12 impossible task.

13 (Applause.)

14 CHAIRMAN BENSE: Further debate? Further  
15 debate?

16 (No response.)

17 Okay. Seeing no further debate,  
18 Commissioner Martinez, you're recognized to  
19 close on your proposal.

20 MR. MARTINEZ: Mr. Chairman, thank you very  
21 much, and thank you for all the speakers who  
22 traveled up here to address this today. I really  
23 appreciate the participation by everybody on both  
24 sides of the issue.

25 What this proposal is is an opportunity to



1 give the people a chance to improve the law in  
2 order to allow the law to accomplish its  
3 intended goal. This proposal was presented to  
4 us not by a member from our Commission, this  
5 proposal came to us from the schools, from the  
6 principals, from the superintendents, from the  
7 school boards.

8 And what they told us is they wanted to  
9 have the flexibility in order to be able to  
10 manage their schools the way they thought it  
11 should be done.

12 Now, the research shows that, in addition  
13 to teachers, the single most important  
14 component in student achievement, in enhancing  
15 student achievement, is the quality of the  
16 principal, in giving that principal, that good  
17 principal, the leeway, the flexibility to be  
18 able to manage her or his own school.

19 And what those people are telling us is  
20 that they want that flexibility in order to be  
21 able to manage their schools, in order to meet  
22 the intention of the law, the goal of the law.  
23 And that is what this proposal does here today.

24 We're not here today going to be able to  
25 change the law by our vote. We're going to be

1       able to put this proposal on the ballot to give  
2       the people an opportunity vote for it.

3               Now, I wonder -- you know, one of the  
4       things that I think everybody needs to realize  
5       is that CP30, this proposal, does not roll back  
6       the clock of the gains that have been made to  
7       date. Our committee, the Government Services  
8       Committee, issued an education report -- a  
9       bestseller I am sure here in Tallahassee.

10              (Laughter.)

11             I have it in front of me. It's 107 pages  
12       long. And in there we document the gains that  
13       have been made with regards to the  
14       implementation of the class size amendment.

15             And if you look at page 61 of the report,  
16       what you find is the following, and I'll read  
17       it.

18             It shows that the, quote, the average  
19       class in 2007, 2008 -- and those were the  
20       figures that were available as of last fall --  
21       in grades prekindergarten through grade three,  
22       was 16.25, and grades four to eight was 18.75,  
23       and in grades nine through 12 was 22.58.

24             Now, those are substantial gains that have  
25       been made already by implementing the law that

1        was passed in November of 2002, and taking  
2        those gains every year to the stage where it's  
3        at right now, which is at the schoolwide  
4        average. So this proposal, CP30, doesn't roll  
5        back the clock. In fact, what it seeks to do  
6        is to be able to maintain those gains by making  
7        it possible to do so in a practical way.

8            Let me address briefly, if I could,  
9        Mr. Chairman, the comments made by some of the  
10       people, in particular, Mr. Meyer, who is a  
11       wonderful lawyer.

12           I understand that in the Legislature there  
13       is movement afoot to make a change to the law  
14       through legislation, and although I am very  
15       open-minded, I -- and I've been practicing law  
16       for about 30 years, there is no way that one  
17       can change the constitution through  
18       legislation.

19           And I did hear Mr. Meyer, the portion of  
20       the Supreme Court opinion that he read to us,  
21       and, yes, that did give the Legislature the  
22       obligation to implement the law. But it put  
23       the requirement at a ratio mandated by the  
24       constitution, and the only way you're going to  
25       be able to -- the only way you're going to be

1       able to make the change is through a  
2       constitutional amendment in order to give the  
3       law the flexibility. It just cannot be done  
4       through statute, no matter how much we wish it  
5       to be so.

6           Again, I want to just conclude where I  
7       started, and that is what we're doing here  
8       today is to give the voters an opportunity to  
9       improve the law that was passed in November of  
10      2002, in order to make sure that the law is  
11      able to accomplish its intended goal. If we  
12      don't make this proposal available to the  
13      voters and give them the opportunity to make  
14      the changes, then, frankly, I think what's  
15      going to happen is that the law that's on the  
16      books right now is going to be  
17      counterproductive.

18           So I ask that the Commission vote in favor  
19      of CP30 and allow the voters a chance to  
20      improve the law to accomplish the intended goal  
21      of the class size amendment.

22           CHAIRMAN BENSE: Commissioner Martinez having  
23      closed on CP0030, the question occurs on passage  
24      of this proposed constitutional amendment. The  
25      clerk will call the roll.

1 MS. FRIER: Chair Bense.  
2 CHAIRMAN BENSE: Yes.  
3 MS. FRIER: Commissioner Barney Barnett.  
4 MR. BARNETT: Yes.  
5 MS. FRIER: Commissioner Martha Barnett.  
6 MS. BARNETT: No.  
7 MS. FRIER: Commissioner Bostick.  
8 MR. BOSTICK: Yes.  
9 MS. FRIER: Commissioner Corcoran.  
10 MR. CORCORAN: No.  
11 MS. FRIER: Commissioner D'Alemberte.  
12 MR. D'ALEMBERTE: No.  
13 MS. FRIER: Commissioner Hogan.  
14 MR. HOGAN: No.  
15 MS. FRIER: Commissioner Johnson.  
16 MS. JOHNSON: Yes.  
17 MS. FRIER: Commissioner Kyle.  
18 MR. KYLE: Yes.  
19 MS. FRIER: Commissioner Lacasa.  
20 MR. LACASA: Yes.  
21 MS. FRIER: Commissioner Levesque.  
22 MS. LEVESQUE: Yes.  
23 MS. FRIER: Commissioner Martinez.  
24 MR. MARTINEZ: Yes.  
25 MS. FRIER: Commissioner Mathis.

1 MS. MATHIS: No.

2 MS. FRIER: Commissioner McKay.

3 MR. MCKAY: No.

4 MS. FRIER: Commissioner McKee.

5 MR. MCKEE: Yes.

6 MS. FRIER: Commissioner Les Miller.

7 MR. LES MILLER: No.

8 MS. FRIER: Commissioner Randy Miller.

9 MR. RANDY MILLER: Yes.

10 MS. FRIER: Commissioner Moore.

11 MR. MOORE: No.

12 MS. FRIER: Commissioner Riley.

13 MS. RILEY: Yes.

14 MS. FRIER: Commissioner Story.

15 MS. STORY: Yes.

16 MS. FRIER: Commissioner Turbeville.

17 MR. TURBEVILLE: No.

18 MS. FRIER: Commissioner Wilkinson.

19 MR. WILKINSON: Yes.

20 MS. FRIER: Commissioner Yablonski.

21 MR. YABLONSKI: Yes.

22 MS. FRIER: Vice Chair Scott.

23 VICE CHAIR SCOTT: No.

24 CHAIRMAN BENSE: And by your vote the

25 proposed constitutional amendment -- proposal

1 fails.

2 VICE CHAIR SCOTT: Mr. Chairman?

3 CHAIRMAN BENSE: Commissioner Scott, you're  
4 recognized.

5 VICE CHAIR SCOTT: Yeah, I'm going to move to  
6 reconsider this and leave it pending.

7 MS. BARNETT: Second that.

8 CHAIRMAN BENSE: Is there a second?

9 MR. CORCORAN: Second.

10 CHAIRMAN BENSE: Okay. Commissioner Corcoran  
11 seconds that motion.

12 Okay. We'll take that up again next  
13 meeting.

14 Out of an abundance of caution, members,  
15 out of an abundance of caution, let's vote on  
16 that motion to reconsider.

17 There's a motion to reconsider and a  
18 second by Commissioner Corcoran. All in favor  
19 of this motion say aye.

20 (Aye.)

21 Opposed no.

22 (No.)

23 The motion carries. We will take it up  
24 next week.

25 Couple housekeeping items, folks. I know

1       you want to go. First of all, our next  
2       meetings, members, our next meetings are on  
3       March 26th -- March 26th, April the 4th, and  
4       April 24th and April 25th. April 24th and  
5       April 25th will be after our Styling and  
6       Drafting Committee has met numerous times to  
7       clean up some of these proposals.

8               Also, I want to thank all members for  
9       attending today. Most importantly, I want to  
10      remind you of Rule 2003. Members, Rule 2003  
11      says that if you can't make a meeting, you --  
12      through Ms. Skelton, you need to let me know  
13      ahead of time, because under extraordinary  
14      circumstances you can miss a meeting.

15              For example, when members were fogged in  
16      last week, that would constitute an  
17      extraordinary circumstance. So, going to get  
18      a -- you know, having an appointment to get  
19      your hair cut that day doesn't quite constitute  
20      extraordinary. So I appreciate all of you  
21      making these meetings.

22              MS. BARNETT: Mr. Chairman?

23              CHAIRMAN BENSE: Commissioner Barnett.

24              MS. BARNETT: Before you fully adjourn, we  
25      TP'd quite a number of proposals today as well as



1 reconsidered, which I'm delighted Commissioner  
2 Scott did. I was going to make that motion myself  
3 to reconsider this. I would ask that you and the  
4 staff consider another meeting of this Commission.

5 I am concerned that we do not have enough  
6 time in the three days you just scheduled for  
7 us to really -- I mean, we're at a point now  
8 where words matter more than ideas, and the  
9 input of the public is very important on the  
10 practical implications --

11 CHAIRMAN BENSE: Okay.

12 MS. BARNETT: -- of this, and I'd ask if  
13 you-all would look -- heaven knows we don't need  
14 any more meetings out of our personal life, but it  
15 may be something we have to do to accomplish the  
16 work of the Commission.

17 CHAIRMAN BENSE: Well, it's fourth and goal,  
18 and we really have to get going now. So I will  
19 visit with staff, and we'll find a time for -- to  
20 go ahead and schedule one more Commission meeting.

21 We do have a lot of items coming up. And  
22 I would also encourage staff -- I was intrigued  
23 by Representative Gelber's solution to the  
24 class size issue, and I would be very -- like  
25 to instruct staff to make sure that you visit

1 with Representative Gelber, and perhaps  
2 Commissioner Martinez might want to visit  
3 through -- or just take a look at what he  
4 has -- what his ideas are.

5 Having said that, any more items to come  
6 before the Commission?

7 (No response.)

8 I want to thank members -- some of the  
9 members, for example, Commissioner Levesque is  
10 going to speak right now. We've been here  
11 since eight o'clock this morning. That's  
12 about -- it's nine and a half hours. It's a  
13 full day's work. Commissioner Levesque, you're  
14 recognized.

15 MS. LEVESQUE: Thank you, Mr. Chairman. Just  
16 to announce that the Style and Drafting Committee  
17 will be meeting on March 26th from 8:00 to 9:30,  
18 and that we have three other meetings that will go  
19 from 9:00 to 2:00, if anybody's interested in  
20 showing up to Style and Drafting, March 28th,  
21 March 31st, and April 2nd. And then on April 4th  
22 we'll be meeting from 8:00 to 9:30 before the  
23 Commission meeting.

24 CHAIRMAN BENSE: Any other business?

25 (No response.)

Commissioner Yablonski moves we rise.

(The proceedings concluded at 5:23 PM)

**CERTIFICATE OF REPORTER**

STATE OF FLORIDA                    )  
COUNTY OF LEON                    )

I, LISA D. FREEZE, Notary Public, certify  
that I was authorized to and did stenographically  
report the proceedings herein, and that the transcript  
is a true and complete record of my stenographic notes.

I further certify that I am not a relative,  
employee, attorney or counsel of any of the parties,  
nor am I a relative or employee of any of the parties'  
attorney or counsel connected with the action, nor am I  
financially interested in the action.

WITNESS my hand and official seal this 17th  
day of March, 2008.

---

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