

FLORIDA TAXATION AND BUDGET REFORM COMMISSION

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IN RE: Committee Meeting

DATE: April 25, 2008

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Concluded at 10:28 a.m.

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Tallahassee, FL

REPORTED BY: LISA D. FREEZE, RPR  
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MEMBERS OF THE COMMITTEE:

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

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

2 \* \* \*

3 CHAIRMAN BENSE: Members, please take your  
4 seats. Okay. The meeting is called to order.

5 MS. FRIER: Commissioner Barney Barnett.

6 MR. BARNETT: Here.

7 MS. FRIER: Commissioner Martha Barnett.

8 MS. BARNETT: Here.

9 MS. FRIER: Commissioner Bostick.

10 MR. BOSTICK: Here.

11 MS. FRIER: Commissioner Corcoran.

12 MR. CORCORAN: Here.

13 MS. FRIER: Commissioner D'Alemberte.

14 MR. D'ALEMBERTE: Here.

15 MS. FRIER: Commissioner Gelber.

16 MR. GELBER: Here.

17 MS. FRIER: Commissioner Haridopolos.  
18 (No response.)  
19 MS. FRIER: Commissioner Hogan.  
20 MR. HOGAN: Here.  
21 MS. FRIER: Commissioner Johnson.  
22 MS. JOHNSON: Here.  
23 MS. FRIER: Commissioner Kyle.  
24 (No response.)  
25 MS. FRIER: Commissioner Lacasa.

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

14 MS. FRIER: Commissioner Les Miller.  
15 MR. LES MILLER: Here.  
16 MS. FRIER: Commissioner Randy Miller.  
17 MR. RANDY MILLER: Here.  
18 MS. FRIER: Commissioner Moore.  
19 MR. MOORE: Here.  
20 MS. FRIER: Commissioner Riley.  
21 MS. RILEY: Here.  
22 MS. FRIER: Commissioner Rivera.  
23 (No response.)  
24 MS. FRIER: Commissioner Rouson.  
25 MR. ROUSON: Here.

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1 MS. FRIER: Commissioner Story.  
2 MS. STORY: Here.  
3 MS. FRIER: Commissioner Turbeville.  
4 MR. TURBEVILLE: Here.  
5 MS. FRIER: Commissioner Wilkinson.  
6 MR. WILKINSON: Here.  
7 MS. FRIER: Commissioner Yablonski.  
8 MR. YABLONSKI: Here.  
9 MS. FRIER: Vice Chair Scott.  
10 VICE CHAIR SCOTT: Here.

11 MS. FRIER: Chair Bense.

12 CHAIRMAN BENSE: Here.

13 Okay. There's a quorum. How many do we  
14 have? We're missing one person. Must be Judge  
15 Kyle, I think.

16 Okay, members. I hope you got a good  
17 night's rest. We're going to take up first the  
18 reconsideration of committee substitute for  
19 Constitutional Proposal 40 as amended by  
20 Amendment 4. I think the order that we'll take  
21 them up, how about if -- Commissioner Levesque,  
22 this is your bill, correct?

23 MS. LEVESQUE: An amendment --

24 CHAIRMAN BENSE: Commissioner Turbeville,  
25 it's your bill. Why don't you briefly -- or take

6

1 as long as you want to -- explain the bill, and  
2 from there we'll move to the amendatory process  
3 and from there to the public testimony, if that's  
4 agreeable with all the members.

5 There's no public testimony on 40. You're  
6 right. It was 65. Sorry about that.

7 Commissioner Turbeville, you're

8 recognized.

9 MR. TURBEVILLE: Thank you, Chairman. This  
10 proposal began as the committee product of the  
11 Governmental Procedures and Structures Committee,  
12 and Commissioner Alan Levine at the time appointed  
13 me to become the point person over this issue, and  
14 I was happy to work with the committee and other  
15 members of the committee to try to shepherd this  
16 along.

17 And what you have in front of you today is  
18 a committee product. And we, obviously, have  
19 decided to narrow that focus from all areas of  
20 the budget to the education side of things.  
21 And Commissioner Levesque has offered a  
22 friendly amendment to do that, and I would like  
23 to turn it over to Commissioner Levesque to  
24 present the amendment.

25 CHAIRMAN BENSE: Okay. members, the next bill

7

1 up, CP26, I inadvertently called CP65. I got the  
2 65 percent confused.

3 So we will move to the amendatory process.  
4 Amendment No. 6 by Commissioner Martinez. Did

5       you have a different order you wanted to go in,  
6       Commissioner Turbeville? We'll go Amendment  
7       No. 6 by Commissioner Martinez. You're  
8       recognized.

9               MR. MARTINEZ: Mr. Chairman, good morning.  
10       What my amendment does is it goes to lines 24 and  
11       25 of the measure that was voted upon and defeated  
12       that was moved back for reconsideration, and it  
13       removes lines 24 and 25 from that proposal. And  
14       in its place it substituted the following. Since  
15       Minority Leader Gelber is here, I will read every  
16       word of my amendment.

17               (Laughter.)

18       It states the following, quote: A higher  
19       learning and other public education programs  
20       that the needs of the people.

21       And that's the insertion. So it replaces  
22       24 and 25, and it puts in its place those  
23       words.

24               CHAIRMAN BENSE: Are there questions of the  
25       sponsor of the amendment? Are there questions?

8

1               MR. LES MILLER: Mr. Chairman?



2 CHAIRMAN BENSE: Commissioner Miller, Les  
3 Miller, you're recognized.

4 MR. LES MILLER: Thank you, Mr. Chairman.

5 Question of the sponsor. I'm not quite  
6 sure I understand what that means. Could you  
7 go into a little more detail about that?

8 MR. MARTINEZ: Yes, sir. Mr. Chairman, may I  
9 respond?

10 CHAIRMAN BENSE: You're recognized.

11 MR. MARTINEZ: All right. What it does,  
12 Commissioner Miller, it takes out the words  
13 "publicly funded" and in its place it's put the  
14 word "public" on line 24. And then I'll explain  
15 why I did this.

16 And then on line 25, it takes out the  
17 words "for children and adults" in its  
18 entirety, and it doesn't replace those words.

19 Now, my reason for doing that is that I  
20 believe that the change that needs to be made  
21 in order to do what I would like to see this  
22 accomplish, which is to overturn explicitly the  
23 Supreme Court opinion in Bush versus Holmes, I  
24 believe that's all that is needed is to put

25 into the constitution what appears on line 18.

9

1 And what appears on line 18 that I believe is  
2 of significance is the clause "at a minimum and  
3 not exclusively." And the reason for that --  
4 if you would like me to continue.

5 MR. LES MILLER: No, I got it.

6 MR. MARTINEZ: Okay.

7 CHAIRMAN BENSE: That means you're okay with  
8 this amendment? Don't agree with the  
9 understanding?

10 MR. LES MILLER: I haven't woke up yet.

11 CHAIRMAN BENSE: Further questions of the  
12 sponsor of the amendment? Commissioner Mathis,  
13 you're recognized.

14 Let me back up a second, folks, just to  
15 make sure. While we're on CP40, CP40 was  
16 amended by Amendment No. 4. So if you're  
17 trying to follow along, follow with Amendment  
18 No. 4, because that was amended into the bill.  
19 So that is really what we're on. I -- please  
20 excuse me. I said it, but I should have  
21 emphasized it more.

22 Further questions of the sponsor of the  
23 amendment?

24 (No response.)

25 We're in debate. Is there debate on the

10

1 amendment?

2 MR. GELBER: I have a question.

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

5 MR. GELBER: Yeah, I'd like -- Commissioner  
6 Martinez, how are you? Good morning. The --  
7 could you explain what you think the import of the  
8 changes would -- what they would bring  
9 specifically to public education and obviously  
10 some of the words that you've taken off.

11 CHAIRMAN BENSE: You're recognized,  
12 Commissioner Martinez.

13 MR. MARTINEZ: Is that specifically as to my  
14 amendment, or the -- well, all I want to do with  
15 my amendment is I'm not -- I don't want to create  
16 an entitlement for people to come in and say that  
17 this has somehow provided an entitlement to a  
18 publicly financed private program for education.

19           And I think that in order to make sure  
20           that that's clear, I have taken those words out  
21           to restore it to the original words of the  
22           constitution.

23           Now, I've added another amendment, but  
24           we're not there yet, that makes it even more  
25           explicit. But at this time what I'm trying to

11

1           do is I'm trying to restore the original  
2           wording in the constitution on those lines,  
3           because -- to answer your question specifically  
4           as to what this does to public education, this  
5           restores the requirement in our constitution  
6           that says that the duty to provide adequate  
7           provision for the education of all of our  
8           children shall be through a uniform, efficient,  
9           safe, secure, and high quality system of free  
10          public schools. That's restored. That's kept  
11          in there. That's honored, and that's honored  
12          at a minimum, that very high standard is  
13          honored at a minimum.

14           So the only new words that I believe are  
15           needed and that are put in there to address

16 Bush versus Holmes is "and not exclusively."  
17 But my intention in public school education is  
18 to protect it, not to do anything that harms  
19 it, and I don't want to affect public  
20 education. I just want to make sure that the  
21 Legislature is given the authority to have --  
22 to provide programs for private school choice  
23 options as part of the school choice programs.

24 MR. GELBER: If I could.

25 CHAIRMAN BENSE: Follow-up. You're

12

1 recognized.

2 MR. GELBER: Yeah. On this one -- and I know  
3 that the one coming up, I think I got what that  
4 does, but on this one you're just -- really what  
5 you're taking out is "for children and adults" and  
6 you're reverting back to the -- what was in there  
7 previously. And I assume you believe that the  
8 high quality applied to the first part but not to  
9 the -- there was a comma in the original version  
10 and then it goes into the higher ed stuff. And  
11 you're trying to maintain that separation and  
12 reverting back to I guess what it was before.

13 MR. MARTINEZ: May I respond?

14 CHAIRMAN BENSE: You're recognized.

15 MR. MARTINEZ: I'm trying to -- as it affects  
16 the public school system, as it affects higher  
17 education and community college, all that language  
18 that's in the constitution as currently worded, I  
19 don't want to touch any of that. All I'm trying  
20 to do is put in -- the operative words I'm putting  
21 in here are "and not exclusively." And I think  
22 that's all we need in order to address the Bush  
23 versus Holmes Supreme Court opinion.

24 CHAIRMAN BENSE: Further questions?

25 Commissioner Barnett, you're recognized for a

13

1 question.

2 MS. BARNETT: Thank you. And this is on the  
3 amendment, Commissioner Martinez. Can you hear  
4 this? Is this on?

5 CHAIRMAN BENSE: You're on.

6 MS. BARNETT: The way the constitution is  
7 currently structured, this is -- there's one  
8 sentence rather than two. And the concept of a  
9 high quality education is applicable to both

10 K through 12 as well as higher education. The one  
11 sentence in the constitution now deals both with  
12 K through 12 as well as higher education, state  
13 university system, and one of the operative  
14 phrases is to provide a high quality education.

15 By separating these into two sentences and  
16 not including the phrase "a high quality  
17 education" in what is now a separate sentence  
18 for the state university system, that -- have  
19 you inadvertently -- because I know you don't  
20 want to do that -- eliminated that as a  
21 standard for higher education?

22 CHAIRMAN BENSE: Commissioner Martinez,  
23 you're recognized to respond.

24 MR. MARTINEZ: No, I haven't done that.  
25 Actually, my amendment doesn't create the

14

1 two-sentence structure. That's the wording of  
2 Amendment No. 4 by Commissioner Levesque. But if  
3 I can address that.

4 The constitution as currently worded has  
5 the modifiers "high quality education"  
6 following -- let me just read the whole thing.

7           It starts on line 20. "High quality system of  
8           free public schools that allow students to  
9           obtain a high quality education."

10           All of that is in connection with the free  
11           public schools. That doesn't refer to the  
12           state university system or the community  
13           colleges. Whether I like it or not, that's the  
14           wording in the constitution. I have no  
15           objections if you want to put "high quality  
16           education" with regards to institutions of  
17           higher learning. I don't have any objections  
18           to that at all.

19           But I think that in order to be precise,  
20           the -- what's in lines 20 and 21, I think is  
21           well known and accepted that that only refers  
22           to the free public school systems within  
23           K through 12. That's not referring to the  
24           state university system or community colleges.

25           CHAIRMAN BENSE: Follow-up? Okay.

15

1           Additional questions of the sponsor of the  
2           amendment?

3           (No response.)



4           Let's go back to debate. Any debate on  
5 the amendment?

6           (No response.)

7           Seeing none, the question occurs on  
8 passage of Amendment No. 6. All in favor of  
9 the amendment say aye.

10          (Aye).

11          Opposed no.

12          (No response.)

13          The amendment passes.

14          Next we'll move on to Amendment No. 7 by  
15 Commissioner Moore. Commissioner Moore, you're  
16 recognized.

17          MR. MOORE: Thank you, Mr. Chairman. In  
18 keeping with the theme of the revised Amendment  
19 No. 4, since we basically took out public  
20 education and spoke only to public opinion of  
21 education, I just wanted to follow through and  
22 make sure that we provide an efficient, safe,  
23 secure, and high quality system of free schools,  
24 and thereby not taking the public, since it's no  
25 longer dealing with public schools, let's make

1       sure that all the schools are efficient, safe,  
2       secure, and high quality.

3               CHAIRMAN BENSE: Okay. Are there questions  
4       of the sponsor of the amendment? Commissioner  
5       Levesque, you're recognized for a question.

6               MS. LEVESQUE: Commissioner Moore, is it your  
7       intention then to create a system whereby the  
8       state funds all schools?

9               MR. MOORE: Yes.

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

13              MS. BARNETT: I'd like you to maybe expand on  
14       that answer just a little bit in terms of free  
15       schools. I interpreted your amendment as creating  
16       a regulatory structure for all schools, whether  
17       they were public or non public.

18              MR. MOORE: Yes.

19              CHAIRMAN BENSE: Why don't you speak in the  
20       mic, Commissioner Jade -- Commissioner Moore.

21              MR. MOORE: Yes.

22              CHAIRMAN BENSE: Okay. Commissioner  
23       Turbeville for a question.

24 MR. TURBEVILLE: Does this create a -- an  
25 entitlement to programs that are also included in  
17  
1 this section? It seems to me that there are  
2 currently program that are authorized in law  
3 that -- for instance, FRAG or in certain cases  
4 Bright Futures, where they receive a partial  
5 payment for their tuition and then the student or  
6 the parent is required to make up the difference.  
7 And it seems to me if you strike "public" and you  
8 simply put the word "free" in its place, you're --  
9 may set up a situation where you're creating a  
10 fiscal impact on this and really creating a new  
11 mandate for the Legislature to fund all schools  
12 that are authorized in law. Is that -- I mean, is  
13 that your intention?

14 CHAIRMAN BENSE: Commissioner Moore?

15 MR. MOORE: It would be -- be my intention  
16 that, at least to the extent that we can provide  
17 safe, secure, high quality schools, that all  
18 schools be provided with that standard.

19 CHAIRMAN BENSE: Commissioner Turbeville for  
20 a follow-up question.

21 MR. TURBEVILLE: Well, just to narrow that  
22 down a little bit. I mean, there are currently  
23 programs, the corporate income tax credit program  
24 is one, Bright Futures is a program that also has  
25 a similar framework, FRAG, which is -- the last

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1 two are higher education, but there are other  
2 educational programs in K through 12 that provide  
3 a partial payment for the school, not an entire  
4 payment. So would this not create a mandate to  
5 the Legislature to provide every program to every  
6 kid that they qualify for under law, provide a  
7 full payment for that?

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

10 MR. MOORE: Yes, it might very well do that.

11 CHAIRMAN BENSE: Further questions?  
12 Commissioner Martinez.

13 MR. MARTINEZ: I'm sorry. I was up here. I  
14 wasn't capable of hearing all that. I just want  
15 to make sure this is clear. Commissioner Moore,  
16 does this wording -- and I think it's repetitive  
17 of what you were just asked and responded. Does

18       this wording, is it designed to have the state  
19       fund all education and have all of that education  
20       regulated by the state?

21               MR. MOORE: Yes.

22               CHAIRMAN BENSE: Commissioner Moore, your  
23       response?

24               MR. MOORE: Yes.

25               CHAIRMAN BENSE: Commissioner Rouson for a

19

1       question.

2               MR. ROUSON: Thank you, Mr. Chair. It seems  
3       to me that this Amendment 4 as a substitute for 40  
4       puts the crack in the wall. Once we begin to give  
5       people the option of going to a private school  
6       with public dollars, at worst it creates a  
7       catalyst for a trend, and at minimum it creates a  
8       trend. Because if we're not putting money into  
9       public schools to improve them and maintain them,  
10      then we're giving people this -- this other  
11      option.

12               It seems to me, Commissioner Moore, and I  
13      want to see if this is correct, what you're  
14      trying to do by this is just take the charade

15 off of it. The logical extension of what  
16 Amendment 4 is is that ultimately we move  
17 towards all schools being free, and we're  
18 getting rid of this distinction of private and  
19 public; is that right?

20 MR. MOORE: That's correct.

21 CHAIRMAN BENSE: Further questions? Further  
22 questions?

23 MR. LES MILLER: Mr. Chairman?

24 CHAIRMAN BENSE: Commissioner Miller, you're  
25 recognized.

20

1 MR. LES MILLER: Let me comment a little  
2 further on what Commissioner Rouson was saying.  
3 In taking what he said concerning all schools  
4 being free, take the private part of it being  
5 free, when we looked at charter schools back in  
6 1997, we were talking about them having a  
7 different curriculum per se than the public  
8 schools. Even though charter schools are,  
9 quote/unquote, public, they have a different  
10 curriculum and different standard than public  
11 schools.

12           Eventually, I think that -- in there it  
13           had to make sure that they were efficient, they  
14           were safe, they were secure, and a quality  
15           system of education.

16           And what you're saying here is simply  
17           nothing more than that, that any school,  
18           regardless if it's a school that is drawn out  
19           by the school system or if it's a storefront  
20           school, that school must be efficient; it must  
21           be safe; it must be secure; it must have  
22           quality, a high quality system for free schools  
23           that allow students to obtain a high quality  
24           education, making sure that nothing goes wrong  
25           with the students in this particular school,

21

1           that they are not placed in any harm of danger  
2           by anyone, and making sure it's secure and safe  
3           and they're getting the best possible education  
4           or the best education they possibly can. Is  
5           that nothing more than what you're saying?

6           CHAIRMAN BENSE: You're recognized.

7           MR. MOORE: Yes.

8           CHAIRMAN BENSE: Further questions? Further

9 questions?

10 (No response.)

11 Okay. Is there debate? Commissioner  
12 Turbeville in debate.

13 MR. TURBEVILLE: Well, based upon the answers  
14 that I received to my question about this creating  
15 a potential new mandate on the state, and at a  
16 minimum, if you're looking at just one program  
17 that's in existence, if you don't even look at the  
18 higher education programs, if you look at the  
19 corporate income tax credit program, it currently  
20 saves the state \$70 million a year. This is  
21 nothing more than a new requirement to spend  
22 additional money at the state level.

23 And so, because it does have a fiscal  
24 impact -- and it clearly has a fiscal impact  
25 and that's its intent, I'm going to vote

22

1 against it.

2 CHAIRMAN BENSE: Okay. Commissioner Kyle,  
3 you're recognized in debate.

4 MR. KYLE: Thank you, Mr. Chairman. I would  
5 like to echo some of the comments of Commissioner



6 Turbeville. It would seem to me by deleting a  
7 word that you would mandate that even the schools  
8 that the voucher would be used for would be free.  
9 And, in other words, your voucher would have to  
10 cover the entire amount that the tuition would  
11 cover at the private school that was in the  
12 voucher program.

13 And whether or not that -- I just don't  
14 think that's a good idea. I think that's  
15 something for the Legislature to decide if  
16 we're going to give them the flexibility to  
17 create a voucher program.

18 And likewise, I don't think anyone in the  
19 Legislature would say that they don't want the  
20 schools in the voucher program to be -- they  
21 don't want them to be efficient, they don't  
22 want to be safe, they don't want them to have a  
23 high quality of education. I think they can  
24 fashion a program to make sure that that's the  
25 case in the schools that are in the voucher

23

1 program, meet those standards whether they want  
2 to heavily regulate them or not. I think

3       that's something we should leave to the  
4       Legislature to decide.

5               Likewise, I don't recall the short period  
6       of time there were vouchers people who actually  
7       went to schools complaining about the schools  
8       that they went to for vouchers, and I think we  
9       need to leave it to the parents to decide,  
10      which is the whole essence of a voucher  
11      program, to investigate which school they want  
12      their child to go to, and let them be the  
13      ultimate decider of which school they think is  
14      best for their child, which school is safest  
15      for their child, which school provides the best  
16      education for their child. And I think parents  
17      are capable of doing that, and that's the whole  
18      crux of the whole voucher issue.

19             And -- so, to put this in there I think  
20      puts all those issues at jeopardy to create a  
21      safe efficient program in and of itself for  
22      vouchers. Thank you.

23             CHAIRMAN BENSE: Commissioner Miller in  
24      debate.

25             MR. LES MILLER: Thank you, Mr. Chairman. If

1 we're going to look at putting this language on  
2 the ballot to basically talk about allowing  
3 vouchers to be in the constitution, if it passes  
4 this committee and goes on the ballot and the  
5 public does vote for it, I think that somewhere in  
6 there we should make sure that we put the language  
7 that Commissioner Moore has in his amendment.

8 I understand that some people feel that  
9 maybe the Legislature should be doing that, but  
10 if we're going to go above and beyond the  
11 Legislature and put it on the ballot to allow  
12 it to be in the constitution by the public,  
13 then the public should have the opportunity to  
14 make sure that when we're talking about a  
15 voucher, that every school that gets this  
16 voucher, or every school period in the state of  
17 Florida gets public funding should be  
18 efficient, safe, secure, and have a high  
19 quality system of education for our schools to  
20 obtain a high quality education in the State of  
21 Florida. I don't see anything wrong with that.

22 I don't think it's a mandate at all. I

23 just think that we have to secure -- today's  
24 time -- we see happening in schools, we got to  
25 make sure our students are safe. I don't want

25

1 to send anyone -- any person's child off to any  
2 school, be it a school that's getting a voucher  
3 or a school that's getting a corporate  
4 scholarship, whatever, and that school is not  
5 safe and making sure that they're protected  
6 when that child walks off from home.

7 Every person, every adult that when they  
8 send their child off to school they want their  
9 child to return home. They want them to return  
10 home with a good education for that particular  
11 day and the whole entire time they're going to  
12 school. I don't see anything wrong with making  
13 sure that it's efficient, safe, secure -- bless  
14 you. I'm sorry. Interrupted there.

15 (Laughter.)

16 And a high quality education in the State  
17 of Florida. So I don't think it's a mandate.  
18 I think it's something that should be on the  
19 ballot. Put the voucher initiative on the

20 ballot and the people of the State of Florida  
21 can make sure that they vote for it. They're  
22 going to have a safe school system, whether  
23 it's public or private, that their child can go  
24 to. And so I ask you to please support  
25 Commissioner Moore's amendment.

26

1 CHAIRMAN BENSE: Commissioner Martinez in  
2 debate.

3 MR. MARTINEZ: Thank you, Mr. Chairman. I  
4 don't support this, and I'm glad that Commissioner  
5 Moore has offered it, because it shows you the  
6 distinction between what I'm trying to accomplish  
7 and some others and what he would like to  
8 accomplish. I'm not seeking to accomplish a fully  
9 funded system of the private entitlement to  
10 education, and I think the wording of his  
11 amendment clearly does that. And he has admitted  
12 as much.

13 So I'm glad that he's offered that, so  
14 that you can see the distinction between the  
15 two alternatives. And although I have only the  
16 greatest respect for Commissioner Moore, he and

17 I have served on the same subcommittee of this  
18 Commission, and I know he, like I, have a  
19 tremendous love and respect for the educational  
20 system and public school system.

21 With regards to what he's trying to do  
22 here, I cannot support that. Thank you.

23 CHAIRMAN BENSE: Commissioner Rouson in  
24 debate.

25 MR. ROUSON: Thank you very much. You know,

27

1 there was a old guy who used to run around, and he  
2 used to say, Ain't nothing funny, it's all about  
3 money. Ain't no pie in the sky down here. So  
4 while you round here, you might as well get you  
5 some cash.

6 It seems to me that that's what this is  
7 about. It's about public dollars being  
8 diverted from maintaining and improving public  
9 schools and being given to private  
10 institutions. And what Commissioner Moore's  
11 amendment does is it pulls the curtain back,  
12 because it is the logical extension of vouchers  
13 going to private institutions. It just is.

14           And I'm glad that Commissioner Moore is  
15           not Ray Charles, but even Ray Charles could see  
16           this, that that's what's coming down the pike.  
17           That's exactly what's coming down the pike.  
18           The next step will be a fully funded private  
19           education with public dollars. So to say we're  
20           not trying to accomplish that might be very  
21           genuine. You're not trying to accomplish that  
22           today, but it certainly opens up that door.

23           Now, maybe if we add another amendment to  
24           it and we say 30 percent of the private schools  
25           have to be owned by African-Americans and

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1           30 percent have to be owned by Hispanics and we  
2           carved up the money, but I think that the  
3           amendment just lifts the charade, and I intend  
4           to support it.

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

7           MS. MATHIS: I cannot support Commissioner  
8           Moore's amendment, because it does exactly what I  
9           do not want to see done. I was concerned when  
10          this proposal was originally drafted, that it

11 would create an entitlement, and that is what I  
12 could not support. But from the amendments  
13 offered by Commissioner Martinez, and I think  
14 another amendment coming up, I've been assured  
15 that this proposal is not going to be an  
16 entitlement of publicly funded private education.

17 So while I respect the other  
18 commissioners' viewpoints, I agree with  
19 Commissioner Martinez and Commissioner  
20 Turbeville and others who have clearly said  
21 that this was not the intent of this proposal,  
22 and I appreciate the additional language  
23 they're adding to clarify that. And I could  
24 not support Commissioner Moore's amendment.

25 CHAIRMAN BENSE: Further debate? Further

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1 debate? Further debate?

2 (No response.)

3 Seeing none, Commissioner Moore, you're  
4 recognized to close on your amendment.

5 MR. MOORE: Thank you, Mr. Chairman. No one  
6 loves public schools more than I do. But the --  
7 when we put the language in here that "this duty



8           shall be fulfilled at a minimum but not  
9           exclusively through," we opened the door, as  
10          Commissioner Rouson clearly said, and I want to  
11          assure that if public money is being spent on  
12          private schools that they are safe, secure, and  
13          high quality. And I believe the state can  
14          regulate that, and the state should regulate that.  
15          Thank you Mr. Chairman.

16                 CHAIRMAN BENSE: Okay. Commissioner Moore  
17          having closed --

18                 MR. MOORE: Roll call vote? Commissioners  
19          want a roll call vote?

20                 CHAIRMAN BENSE: Sure. Commissioner Moore  
21          having closed on Amendment No. 7, Nancy, please  
22          call the roll.

23                 MS. FRIER: Chair Bense.

24                 CHAIRMAN BENSE: No.

25                 MS. FRIER: Commissioner Barney Barnett.

30

1                 MR. BARNETT: No.

2                 MS. FRIER: Commissioner Martha Barnett.

3                 MS. BARNETT: No.

4                 MS. FRIER: Commissioner Bostick.

5 MR. BOSTICK: No.

6 MS. FRIER: Commissioner Corcoran.

7 MR. CORCORAN: No.

8 MS. FRIER: Commissioner D'Alemberte.

9 MR. D'ALEMBERTE: No.

10 MS. FRIER: Commissioner Hogan.

11 MR. HOGAN: No.

12 MS. FRIER: Commissioner Johnson.

13 MS. JOHNSON: No.

14 MS. FRIER: Commissioner Kyle.

15 MR. KYLE: No.

16 MS. FRIER: Commissioner Lacasa.

17 (No response.)

18 MS. FRIER: Commissioner Levesque.

19 MS. LEVESQUE: No.

20 MS. FRIER: Commissioner Martinez.

21 MR. MARTINEZ: No.

22 MS. FRIER: Commissioner Mathis.

23 MS. MATHIS: No.

24 MS. FRIER: Commissioner McKay.

25 MR. MCKAY: No.

1 MS. FRIER: Commissioner McKee.

2 MR. MCKEE: No.

3 MS. FRIER: Commissioner Les Miller.

4 MR. LES MILLER: Yes.

5 MS. FRIER: Commissioner Randy Miller.

6 MR. RANDY MILLER: No.

7 MS. FRIER: Commissioner Moore.

8 MR. MOORE: Yes.

9 MS. FRIER: Commissioner Riley.

10 MS. RILEY: No.

11 MS. FRIER: Commissioner Rouson.

12 MR. ROUSON: Yes.

13 MS. FRIER: Commissioner Story.

14 MS. STORY: No.

15 MS. FRIER: Commissioner Turbeville.

16 MR. TURBEVILLE: No.

17 MS. FRIER: Commissioner Wilkinson.

18 MR. WILKINSON: No.

19 MS. FRIER: Commissioner Yablonski.

20 MR. YABLONSKI: No.

21 MS. FRIER: Vice Chair Scott.

22 VICE CHAIR SCOTT: No.

23 CHAIRMAN BENSE: And by your vote the

24 amendment fails. Vote total was 21 to three.

25                   Okay. Next we'll take up Amendment No. 8

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1           by Commissioner Martinez. Commissioner  
2           Martinez, you're recognized.

3                   MR. MARTINEZ: Mr. Chairman, I have withdrawn  
4           Amendment 8 and I submitted Amendment 9.

5                   CHAIRMAN BENSE: Okay. Do you wish to  
6           withdraw Amendment No. 8?

7                   MR. MARTINEZ: Yes, sir.

8                   CHAIRMAN BENSE: Without objection, show  
9           Amendment No. 8 withdrawn.

10                   We are now on Amendment No. 9, which has  
11           just been handed out to you. Commissioner  
12           Martinez, you're recognized on Amendment No. 9.

13                   MR. MARTINEZ: Yes, Mr. Chairman, Amendment  
14           No. 9 would come right at the end of section 1A.  
15           And it is my attempt to make it as explicit as  
16           possible, that, quote, "Nothing in this subsection  
17           creates an entitlement to a publicly financed  
18           private program." Period. It's very  
19           straightforward, and I hope that that addresses  
20           concerns that some of my colleagues have had.

21                   CHAIRMAN BENSE: Are there questions of the

22 sponsor of the amendment? Commissioner Gelber,  
23 you're recognized.

24 MR. GELBER: Bob, a couple questions if I  
25 can, Commissioner -- Mr. Chairman.

33

1 First, I'd like to ask what's the  
2 definition of a "publicly financed private  
3 program." Is it a program that uses tax  
4 dollars? Is it, for instance, a corporate tax  
5 credit program, a publicly financed private  
6 program? Because the folks that run that  
7 program have argued consistently that it is not  
8 public dollars being used.

9 CHAIRMAN BENSE: Commissioner Martinez,  
10 you're recognized to respond.

11 MR. MARTINEZ: I think the CTC actually has  
12 its own separate situation that -- because of the  
13 way it's funded through tax contributions that are  
14 deductible -- through contributions that are  
15 tax-deductible. So one could make an argument,  
16 Commissioner Gelber, that's not per se publicly  
17 financed.

18 What my attempt to get at here is, I do

19 not want somebody to come in, myself for  
20 example, and say, I have a right to have the  
21 state finance my private program for educating  
22 my kids, whether that be at pre-K, K through  
23 12, or thereafter.

24 MR. GELBER: Follow-up.

25 CHAIRMAN BENSE: You're recognized.

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1 MR. GELBER: Okay. Well, my precise question  
2 was whether or not the corporate tax credit  
3 program or any program that uses an intermediary  
4 for a credit would qualify for publicly financed.  
5 I take it from your answer that while it's  
6 intended not to create an entitlement for some  
7 programs, it would not apply to that program or  
8 any program that isn't defined by the term  
9 "publicly financed" like that program.

10 In other words, it could create  
11 entitlement for those programs because the only  
12 ones you exclude from the entitlement are the  
13 publicly financed private programs.

14 CHAIRMAN BENSE: Commissioner Martinez,  
15 you're recognized.

16           MR. MARTINEZ: Well, as I understand it,  
17           those would be the only ones to which one could  
18           seek an entitlement. But, just so it's clear on  
19           the record, since this is the record of the  
20           proceedings proposing this constitutional  
21           amendment, it is my intention that nothing that we  
22           put in this amendment create an entitlement to  
23           having an individual go to the state and say, I'm  
24           entitled to have my educational program financed  
25           from public funds.

35

1           MR. GELBER: Follow-up.

2           CHAIRMAN BENSE: You're recognized.

3           MR. GELBER: I think you're probably doing  
4           this provision in response to line 17 and 18. And  
5           I think that's -- I'd like to talk for a moment  
6           how this Amendment No. 9 interrelates with lines  
7           17 and 18.

8           CHAIRMAN BENSE: You want to do that in the  
9           debate phase, or you want to do it in the question  
10          phase?

11          MR. GELBER: Actually through a question.

12          CHAIRMAN BENSE: Okay. Good.

13 MR. GELBER: Is it your belief that the  
14 phrase "this duty shall be fulfilled at a minimum  
15 and not exclusively through adequate provision by  
16 law," et cetera, et cetera, "because at a minimum  
17 and not exclusively," that in fact this provision  
18 may create an entitlement, because it requires  
19 that the education system be not exclusively  
20 public.

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

23 MR. MARTINEZ: Going back -- I'm sorry.

24 Going back to lines 20 -- actually, would  
25 be 17 and 18. And I think we have to take the

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1 constitution as currently drafted, and so we  
2 start at line 6 -- 15.

3 As drafted -- I think this change was in  
4 '98 -- the people determined that the -- that  
5 it is the paramount duty of the state to make  
6 adequate provision for the education of all  
7 children residing within its borders. And then  
8 the constitution as currently drafted says,  
9 "Adequate provision" -- trying to figure out



10 where the cross-outs are. "Adequate provision  
11 shall be made by law for uniform, efficient,  
12 safe, secure, and high quality system of free  
13 public schools."

14 That is the standard currently in our  
15 constitution as to how that duty is to be  
16 fulfilled, and I'm keeping that. In fact, I'm  
17 making that the floor by saying that is the  
18 duty at a minimum. So the minimum duty is a  
19 very high duty, which is the current duty in  
20 the constitution. That is as it applies to a  
21 system of free public schools.

22 The reason why the words "and not  
23 exclusively" is in there -- are in there is  
24 strictly and specifically to address the ruling  
25 in the Bush versus Holmes case, in which the

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1 Supreme Court stated that the wording of the  
2 constitution provides the single and only and  
3 exclusive manner in which the state is to  
4 fulfill its mandate to make adequate provision  
5 for the education of Florida's children through  
6 a system of public schools, and then by using

7       that rationale struck down the Opportunity  
8       Scholarship Program private school option,  
9       because it says that's not provided for in the  
10       constitution. We can only fulfill that mandate  
11       one way, through a public school system.

12               So the reasons for the words "and not  
13       exclusively" is to allow for programs such as  
14       the Opportunity Scholarship Program that  
15       provide a private school option through a  
16       school choice program.

17               MR. GELBER: Follow-up question? Here's  
18       really the -- well, let's get right to the  
19       relevance of the phrase. If you look at lines 17,  
20       18, and 19, basically saying that education must  
21       be fulfilled, and your phrase, "at a minimum and  
22       not exclusively," I know it's to get to respond --  
23       we agreed to respond to that decision.

24               But is it not creating two requirements  
25       for education to be fulfilled? Number one,

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1       it's got to be at a minimum to free public  
2       education, but two, it cannot be exclusively  
3       through a public education, because when you

4 say, "and not exclusively," you're creating  
5 another requirement that that system of  
6 complying with the mandate to provide high  
7 quality isn't simply at a minimum to the public  
8 school system, but it's also got to be -- it  
9 can't exclusively be through the public school  
10 system, and I think that's what your new  
11 amendment is referring to.

12 But my question really is, is on line 18,  
13 when you say "at a minimum and not  
14 exclusively," are you not requiring that when  
15 the Legislature puts together a system for  
16 educating its children that it will have to be  
17 at a minimum high standard and as well as not  
18 exclusively public, because you are requiring  
19 it, that it be not exclusive, and that I assume  
20 you believe -- therefore my question is: Do  
21 you believe without this amendment that you are  
22 creating a mandate that we have a private  
23 school system on the Legislature, and that's  
24 what your amendment is supposed to be  
25 addressing?

1           CHAIRMAN BENSE: Commission Martinez, you're  
2 recognized.

3           MR. MARTINEZ: Definitely not.

4           CHAIRMAN BENSE: Any questions? Further  
5 questions? Commissioner McKay, you're recognized  
6 for a question.

7           MR. MCKAY: Thank you, Mr. Chairman. My  
8 question is for Commissioner Martinez,  
9 Commissioner Gelber, anybody else that wants to  
10 jump in, too. And I asked Commissioner Martinez  
11 to work with me on his Amendment No. 8 to -- to  
12 have it be -- to -- in order to work to prevent a  
13 wholesale opening of the treasury for vouchers.

14           As Commissioner Gelber and I have spoken  
15 before many times, if the disability voucher  
16 was stricken by the court for any reason, he  
17 said that both Democrats and Republicans would  
18 come to the aid of that program, because there  
19 are 20 plus thousand children that are doing  
20 much better.

21           But there, unfortunately, were a number of  
22 bad apples that were spoiling the barrel; and  
23 so after three years' work, the Legislature

24 passed an accountability bill with regard to  
25 that.

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1 What I wouldn't want to see, and I think  
2 it would be a bad road for us to go down for  
3 those 20 plus thousand children as well as the  
4 20 plus thousand children under the corporate  
5 tax scholarship program, is that someone -- and  
6 I'll just use this as an example, but there are  
7 many others. Someone that is currently  
8 home-schooling their children could come to the  
9 Legislature or come to the state and say, I'm  
10 home-schooling my child. I want the state to  
11 send the check to me. That is a prescription  
12 for disaster.

13 So I would ask Commissioners Martinez and  
14 Gelber, and again, anybody else, to see if  
15 there's language that we can put into the  
16 amendment that will prevent that possibility  
17 and lead to the demise of the very good  
18 programs that have been established and are  
19 broadly supported.

20 CHAIRMAN BENSE: Commissioner Martinez.

21 MR. MARTINEZ: Thank you, Mr. Chairman. I  
22 believe, Commissioner McKay, and I share your --  
23 your intention of making sure that this doesn't  
24 provide for an obligation to be fulfilled by the  
25 state for anyone who comes in and says, I want

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1 public funds to finance my private education  
2 program. I don't want to accomplish that.

3 So I believe that Amendment No. 9 does  
4 that. Nothing in this subsection creates an  
5 entitlement to a publicly financed private  
6 program. I think that that wording is clear  
7 and sufficiently broad to encompass that  
8 situation.

9 CHAIRMAN BENSE: Further questions? Further  
10 questions? Commissioner Gelber for a question.

11 MR. GELBER: Yeah. In response to  
12 Commissioner McKay's point, item number coming up  
13 next is Amendment 10, which I think would better  
14 address your concerns.

15 But again, my question -- well, it's just  
16 to clarify. You believe your amendment would  
17 not -- would prevent entitlement of a person or

18 a family; is that correct, Mr. Martinez?

19 CHAIRMAN BENSE: You're recognized.

20 MR. MARTINEZ: Yes, I do.

21 MR. GELBER: As a follow-up.

22 CHAIRMAN BENSE: You're recognized.

23 MR. GELBER: What about a requirement on the  
24 Legislature? In other words, you still have that  
25 provision in sentence 18 which says, fulfilling

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1 the duties, you need it to be at a minimum through  
2 a free public system, but not exclusively through  
3 a free public system. Both those things, because  
4 of the word "and" but also because that's what  
5 those phrases mean. So how do you prevent the  
6 Legislature from not having a burden and an  
7 obligation to be nonexclusive in its mandate to  
8 fulfill the duty of providing a high quality  
9 system of public education?

10 CHAIRMAN BENSE: Commissioner Martinez.

11 MR. MARTINEZ: I'll endeavor to answer that.  
12 Obviously, we can't create an entitlement for the  
13 Legislature. They don't have any constitutional  
14 right to anything as a legislative body except

15        what's in the constitution. This doesn't create a  
16        right on them or an obligation on them to create a  
17        private program. I've already addressed that.

18            17 and 18, those -- the words in there  
19        basically maintain the high standard as a  
20        minimum, but say that's not the exclusive way  
21        to fulfill the paramount duty, not because it's  
22        creating an entitlement, but it should be  
23        done -- you should also proceed through a  
24        private program, but so that you can address  
25        the issue of Bush versus Holmes, which made it

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1        clear in that opinion that this is the only  
2        way. This is the exclusive way to provide for  
3        funding.

4            I can't make it any more clear. If  
5        anybody has some suggestions, I would be more  
6        than glad to get it, but I think I'm making it  
7        as clear as possible. This does not create an  
8        entitlement. It is merely to address the  
9        ruling in Bush versus Holmes at the Supreme  
10       Court level.

11            CHAIRMAN BENSE: Okay. Commissioner Barnett



12 for a question.

13 MS. BARNETT: Maybe it's more appropriate on  
14 the next amendment. Commissioner Gelber, it looks  
15 like he's going to offer. But, Commissioner  
16 Martinez, to the point that Commissioner Gelber  
17 has made about the use of the words "and not  
18 exclusive," to respond to whether you believe that  
19 would create some directive or mandate to the  
20 legislature in funding education, that it fund  
21 programs that were not public programs.

22 CHAIRMAN BENSE: Commissioner Martinez.

23 MR. MARTINEZ: This does not create a mandate  
24 to the Legislature. It basically says that if the  
25 Legislature were to want to have a private school

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1 option in the Opportunity Scholarship Program --  
2 let's take that -- that it can do so  
3 constitutionally without running afoul of the  
4 Supreme Court opinion in Bush versus Holmes.

5 CHAIRMAN BENSE: Further questions? Further  
6 questions?

7 MR. MCKAY: Mr. Chairman?

8 CHAIRMAN BENSE: Commissioner McKay, you're

9 recognized.

10 MR. MCKAY: Are we taking public -- are we on  
11 second reading? Are we taking public testimony?

12 CHAIRMAN BENSE: No. We agreed to take  
13 public testimony on 65 -- 26. We've had tons of  
14 public testimony on this. We've had tons.

15 Further questions?

16 (No response.)

17 Okay. Debate. Is there debate? I think  
18 we've gotten a lot of debate out in the  
19 question phase. But any debate?

20 (No response.)

21 Seeing none, Commissioner Martinez, you're  
22 recognized to close on your amendment.

23 MR. MARTINEZ: Mr. Chairman, I have nothing  
24 further to add. Thank you.

25 CHAIRMAN BENSE: Okay. We'll continue with

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1 the roll call vote. The question recurs on  
2 passage of Amendment 9.

3 Nancy, please call the roll.

4 MS. FRIER: Chair Bense.

5 CHAIRMAN BENSE: Yes.

6 MS. FRIER: Commissioner Barney Barnett.  
7 MR. BARNETT: Yes.  
8 MS. FRIER: Commissioner Martha Barnett.  
9 MS. BARNETT: Yes.  
10 MS. FRIER: Commissioner Bostick.  
11 MR. BOSTICK: Yes.  
12 MS. FRIER: Commissioner Corcoran.  
13 MR. CORCORAN: Yes.  
14 MS. FRIER: Commissioner D'Alemberte.  
15 MR. D'ALEMBERTE: Yes.  
16 MS. FRIER: Commissioner Hogan.  
17 MR. HOGAN: Yes.  
18 MS. FRIER: Commissioner Johnson.  
19 MS. JOHNSON: Yes.  
20 MS. FRIER: Commissioner Kyle.  
21 MR. KYLE: Yes.  
22 MS. FRIER: Commissioner Lacasa.  
23 MR. LACASA: Yes.  
24 MS. FRIER: Commissioner Levesque.  
25 MS. LEVESQUE: Yes.

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1 MS. FRIER: Commissioner Martinez.  
2 MR. MARTINEZ: Yes.

3 MS. FRIER: Commissioner Mathis.

4 MS. MATHIS: Yes.

5 MS. FRIER: Commissioner McKay.

6 MR. MCKAY: Yes.

7 MS. FRIER: Commissioner McKee.

8 MR. MCKEE: Yes.

9 MS. FRIER: Commissioner Les Miller.

10 MR. LES MILLER: Yes.

11 MS. FRIER: Commissioner Randy Miller.

12 MR. RANDY MILLER: Yes.

13 MS. FRIER: Commissioner Moore.

14 MR. MOORE: Yes.

15 MS. FRIER: Commissioner Riley.

16 MS. RILEY: Yes.

17 MS. FRIER: Commissioner Rouson.

18 MR. ROUSON: Yes.

19 MS. FRIER: Commissioner Story.

20 MS. STORY: Yes.

21 MS. FRIER: Commissioner Turbeville.

22 MR. TURBEVILLE: Yes.

23 MS. FRIER: Commissioner Wilkinson.

24 MR. WILKINSON: Yes.

25 MS. FRIER: Commissioner Yablonski.

1 MR. YABLONSKI: Yes.

2 MS. FRIER: Vice Chair Scott.

3 VICE CHAIR SCOTT: Yes.

4 CHAIRMAN BENSE: And by your vote the  
5 amendment passes, 25 to zero.

6 Okay. Let's move on to Amendment No. 10  
7 by Commissioner Gelber. Commissioner Gelber,  
8 you're recognized.

9 MR. GELBER: Thank you. Folks, here's the  
10 deal. If you look at the -- Amendment 4, there is  
11 no question, I think, that that creates a  
12 requirement and mandate to the Legislature that  
13 they fulfill the high quality system of education  
14 at a minimum through public education, but not  
15 exclusively. Because when you say at a minimum  
16 and not exclusively, you are saying to the  
17 Legislature, if you wanted to simply provide only  
18 the traditional public school system without  
19 anything else, you would not be able to do it.

20 I don't think that's even something you  
21 can question, even with the amendment that was  
22 just added, because while that, as its sponsor

23 indicates, goes to the entitlement of a student  
24 or the family of a student, it does not in any  
25 way impact the obligation and the mandate of

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1 the Legislature.

2 So a Legislature reading this would say --  
3 have to say, this duty shall be fulfilled; what  
4 are we going to do? We're going to have to  
5 fulfill our requirements to educate our  
6 students at a certain level, and that's the  
7 minimum. But it cannot be done solely through  
8 public education -- through public schools in  
9 the traditional sense.

10 So there's no question that we may be the  
11 first state in the union that essentially will  
12 create a mandate on the Legislature to actually  
13 avail themselves of private schools that are  
14 publicly financed. Now, that may or may not be  
15 a good thing, but I can tell you, though, it's  
16 extremely unusual. And I've never heard of  
17 that.

18 So what my amendment simply does, is keeps  
19 the minimum requirement, which I understand,

20 and that, in fact, it may give Commissioner  
21 Martinez a better shot at the Supreme Court.  
22 But it gets rid of what I think is unmistakably  
23 a mandate on the Legislature that they educate  
24 children not exclusively through a traditional  
25 public school system, but also through private

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1 schools. It's -- in other words, it takes it  
2 more towards the middle than all the way over  
3 to the right, which is that what I think the  
4 phrase does.

5 So that's what the amendment does. I may  
6 regret it at some point because it may be a  
7 basis to go at that opinion, but I think, at  
8 least, it is a more centrist view of what we  
9 would expect our constitution say and what we  
10 would expect our Legislature to do by way of  
11 funding.

12 CHAIRMAN BENSE: Are there questions of the  
13 sponsor of the amendment?

14 MR. MARTINEZ: I have a question.

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

17 MR. MARTINEZ: I want to make sure that I  
18 understand what my good friend is trying to  
19 accomplish and let me see how far --

20 MR. GELBER: Careful. When we say good  
21 friend in the Legislature, we don't often mean it.

22 (Laughter.)

23 CHAIRMAN BENSE: You mean all that love you  
24 were giving me those years, Dan, you didn't mean  
25 it?

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1 MR. GELBER: I meant it for you, Chairman.

2 MR. MARTINEZ: Let me see if I can understand  
3 what my evil twin, Commissioner Gelber, meant.

4 MR. GELBER: That's a little more accurate.

5 (Laughter.)

6 MR. MARTINEZ: The problem that I have is  
7 that whether or not he or I like it, and probably  
8 like it, the Supreme Court opinion provides that  
9 the wording of the constitution is the exclusive  
10 way in which the state can provide -- can  
11 accomplish its obligation. So if we don't put in  
12 there "nonexclusively," we don't address the  
13 limitations from the Supreme Court opinion.



14           Is he willing to support -- and he can't  
15       vote -- but is he willing to support the change  
16       to line 18 from the word "and" to the word  
17       "but," so that it would read as follows,  
18       starting on line 17: "This duty shall be  
19       fulfilled at a minimum but not exclusively,"  
20       comma, "through adequate provision," et cetera.

21           Does Commissioner Gelber believe that the  
22       change from "and" to "but" makes it more  
23       palatable to him, makes it clear that it's not  
24       an entitlement, and still allows me and others  
25       who want to override that limitation in the

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1       Supreme Court opinion to do so through the  
2       inclusion of the words "not exclusively"?  
3       Would he support that?

4           CHAIRMAN BENSE: Commissioner Gelber, you're  
5       recognized.

6           MR. GELBER: Thank you for that. It's the  
7       last time I'll interlineate in front of you on my  
8       own papers. I don't think it changes it, because  
9       I think it's still -- in fact, in most folks that  
10      draft legislation knows that if you put "but" in,

11       it's still a requirement. It's the equivalent of  
12       "and" because it's still got to be both.

13             And I would answer it -- I would answer  
14       you more broadly this way. I think in your  
15       desire to supplant the Supreme Court, what the  
16       authors of this have done is gone a little bit  
17       too far. In other words, all your real  
18       argument to the Supreme Court is that it  
19       shouldn't be exclusive. That's really your  
20       argument.

21             Well, then, if your argument is it  
22       shouldn't be exclusive, the last thing, then  
23       simply say, this is the minimum, and then the  
24       Legislature will have to decide whether we've  
25       reached a minimum or not.

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1             But by putting in "but" or "and," either  
2       one, not exclusively, you're telling the  
3       Legislature that you cannot -- you cannot have  
4       a system that is solely public and does not  
5       avail itself of a privately -- publicly  
6       financed private education. And I don't think  
7       you really want to move the needle from perhaps

8 to the left where you think it is all the way  
9 to the right. I think if you simply said, "at  
10 a minimum," it would be better.

11 And in terms of supporting this in any  
12 occasion, I don't have a vote, but I can assure  
13 you no matter what you do, I'm going to be  
14 arguing -- since you asked me -- later in the  
15 day that this is the Taxation and Budget  
16 Commission and we should not use this power to  
17 simply supplant District Court and Supreme  
18 Court decisions we don't like that really  
19 aren't wholly within the heartland of the task  
20 of the Commission.

21 With that said, I think my amendment  
22 actually takes you to the middle, and the  
23 Supreme Court may or may not agree that at a  
24 minimum we've done it, but at least it's not a  
25 requirement on the Legislature to only -- to

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1 have to use private education that's publicly  
2 financed.

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

5           MR. MARTINEZ: As much as I would like to  
6           keep ats to a minimum -- no pun intended -- but  
7           just putting in "at a minimum" would not do it for  
8           the following reason. The Supreme Court opinion  
9           in Bush versus Holmes actually, in interpreting  
10          whether or not OSP, the private school option, was  
11          constitutional, looked at the language of the  
12          constitution and said, we can't tell just by  
13          looking at the language. So we have to apply  
14          principles of construction.

15                 And that's when they came up with the  
16          famous Latin principle, which many of us have  
17          never heard of before, called *expressio unius*  
18          *est exclusio alterius*, which means that that  
19          which is expressed excludes the others that are  
20          not.

21                 And if we put in "at a minimum" and  
22          nothing else, a court later on could say --  
23          especially since we have the opportunity here  
24          to be exclusively on point -- the court later  
25          on could say, they only mentioned one way of

1           doing it, and therefore we should assume that

2       that was the only way.

3               And because -- we have an opportunity here  
4       to be clear on this and exclusively address  
5       Bush versus Holmes, especially since the court  
6       gave us guidance through its opinion as to its  
7       thinking. I think, regrettably, that your  
8       suggestion, Commissioner Gelber, would not be  
9       sufficient, and therefore we need to put in the  
10      words, "and not exclusively."

11             But, because of the concern that you and  
12      others have had about whether or not this  
13      creates an entitlement that directs the  
14      Legislature to create a -- an additional system  
15      of education, that's why I put in the Amendment  
16      No. 9, which I was planning on naming it after  
17      you, but out of respect for your position on  
18      this, I will not call it the Gelber amendment.

19             CHAIRMAN BENSE: Further questions? Further  
20      questions of the sponsor of the amendment?  
21      Commissioner Barnett, you're recognized.

22             MS. BARNETT: Thank you, Mr. Chairman. As I  
23      understand the decision that you're referring to,  
24      what the court said is that the words of the

25 constitution -- you have to look at the words of

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1 the constitution to determine what's authorized.  
2 It's exclusively where you look, that you  
3 exclusively -- you must look within the confines  
4 of the constitution. That's the exclusive  
5 language that you have.

6 And to me, putting in -- changing those  
7 words, changing the operative words in the  
8 constitution in any way at all, but  
9 particularly to put in a standard "at a  
10 minimum," will give the court the guidance it  
11 needs. It will give an indication that there  
12 are other things that can be done, because this  
13 is just at a minimum.

14 And I think that those words do accomplish  
15 the purpose that I've heard you articulate,  
16 Commissioner Martinez, and I share  
17 Representative Gelber's concerns about the  
18 inclusion of the language, but "not  
19 exclusively" or "and not exclusively," because  
20 I think he's right on the money. The court  
21 will say this means something. These words

22 mean something. The people intended something  
23 to happen when they put this in, and "not  
24 exclusive" means there has to be something  
25 else. It has to be something else.

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1 And I would hope that the direction that  
2 would come from, again, the words that mean  
3 something "at a minimum," the court would say  
4 they meant "at a minimum," but it could be  
5 something else, not a mandate that it has to be  
6 something else.

7 CHAIRMAN BENSE: Was that a question or is  
8 that early debate?

9 MS. BARNETT: And I was just going to say,  
10 like in Double Jeopardy or Jeopardy, I probably  
11 gave the answer rather than the question, but I  
12 meant to give the question.

13 CHAIRMAN BENSE: Were you part of the Senate  
14 at one time, Commissioner Barnett? Because  
15 you-all know how to debate in the question phase  
16 real well.

17 MR. GELBER: Aren't they supposed to say,  
18 isn't that true?

19 (Laughter.)

20 CHAIRMAN BENSE: Any more questions? Any  
21 more questions? Any more questions?

22 (No response.)

23 Is there debate? Is there debate?

24 Commissioner Levesque in debate. You're  
25 recognized.

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1 MS. LEVESQUE: Thank you, Mr. Chairman. I  
2 just have to speak against the amendment, because  
3 I believe that it does not address the Bush v.  
4 Holmes decision, and that's the whole purpose of  
5 the underlying proposal. Thanks.

6 CHAIRMAN BENSE: Commissioner Turbeville,  
7 you're recognized in debate.

8 MR. TURBEVILLE: I concur with Commissioner  
9 Levesque. This does take the proposal in a  
10 completely different direction, and I believe if  
11 we adopted this amendment, it may, in fact, alter  
12 the voluntary pre-K program that's also on the  
13 next page of this original Amendment 4, so I'd  
14 vote against the amendment.

15 CHAIRMAN BENSE: Further debate?



16 (No response.)

17 Seeing none, Commissioner Gelber, you're  
18 recognized to close on your amendment.

19 MR. GELBER: Thank you. I had a little  
20 heartburn when I wrote this up, because I thought  
21 I was accomplishing my friend Commissioner  
22 Martinez's goal in a better way than he had.  
23 And -- but I'm more convinced now after listening  
24 to my colleagues that this is actually exactly  
25 what it ought to be, and maybe -- I guess --

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1 what's that, Commissioner Barnett, a blind  
2 squirrel once in a while finds a --

3 MS. BARNETT: Blind hog.

4 MR. GELBER: Blind hog? Oh, God.

5 (Laughter.)

6 CHAIRMAN BENSE: Blind hog every now and then  
7 finds an acorn. Not acorn but akern [phonetic].

8 MR. GELBER: That's how we say it on Miami  
9 Beach.

10 (Laughter.)

11 Here's the deal. If you look at that  
12 phrase, there's no question in its current form

13 it would require the Legislature to go into a  
14 publicly financed private education. It would  
15 require it. There's no way to interpret "and  
16 not exclusively" any other way.

17 By the way, if you look at the term "at a  
18 minimum," that almost is the same thing as "not  
19 exclusively," because it is expressly  
20 suggesting -- expressly saying that that's what  
21 you got to do at a minimum level, but beyond  
22 that everything is fair game, which is what I  
23 think probably if you wanted to actually look  
24 at the Supreme Court decision and not simply do  
25 something that was intended to go overboard, to

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1 roll up a newspaper and hit the justices in the  
2 nose, this is actually what you would do. You  
3 would simply say at a minimum that's what we  
4 want you to do, but the Legislature is free to  
5 do more.

6 And so I think this is actually a better  
7 way to approach this issue. Though, I disagree  
8 we should be approaching it at all. So while I  
9 may -- and while some of you I think

10           reflexively said, this is not the direction we  
11           want to go, and I think it's exactly the  
12           direction you want it to go, it just doesn't go  
13           as far as you want it to go, but I suspect and  
14           actually fear that it might go far enough.

15                 But I think it's better and it doesn't  
16           have the unintended consequence of forcing the  
17           Legislature to do something that I don't think  
18           you want them to have to do. We'd be the first  
19           state in the union that created a right, an  
20           obligation, and a mandate to have publicly  
21           financed private schools.

22                 CHAIRMAN BENSE: Commissioner Gelber having  
23           closed on Amendment No. 10, the question recurs.

24                 Nancy, please call the roll.

25                 MS. FRIER: Chair Bense.

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1                 CHAIRMAN BENSE: Yes -- I mean, no.

2                 (Laughter.)

3                 MS. FRIER: Commissioner Barney Barnett.

4                 MR. BARNETT: Yes -- I mean, no.

5                 (Laughter.)

6                 MS. FRIER: Commissioner Martha Barnett.

7 MS. BARNETT: Yes.

8 MS. FRIER: Commissioner Bostick.

9 MR. BOSTICK: No.

10 MS. FRIER: Commissioner Corcoran.

11 MR. CORCORAN: No.

12 MS. FRIER: Commissioner D'Alemberte.

13 MR. D'ALEMBERTE: Yes.

14 MS. FRIER: Commissioner Hogan.

15 MR. HOGAN: Before I vote, may I remind the

16 Speaker he just flipped his vote?

17 (Laughter.)

18 VICE CHAIR SCOTT: He took it back.

19 MS. FRIER: Commissioner Hogan.

20 MR. HOGAN: No.

21 MS. FRIER: Commissioner Johnson.

22 MS. JOHNSON: No.

23 MS. FRIER: Commissioner Kyle.

24 MR. KYLE: No.

25 MS. FRIER: Commissioner Lacasa.

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1 (No response.)

2 MS. FRIER: Commissioner Levesque.

3 MS. LEVESQUE: No.

4 MS. FRIER: Commissioner Martinez.  
5 MR. MARTINEZ: No.  
6 MS. FRIER: Commissioner Mathis.  
7 MS. MATHIS: No.  
8 MS. FRIER: Commissioner McKay.  
9 MR. MCKAY: No.  
10 MS. FRIER: Commissioner McKee.  
11 MR. MCKEE: No.  
12 MS. FRIER: Commissioner Les Miller.  
13 MR. LES MILLER: Yes.  
14 MS. FRIER: Commissioner Randy Miller.  
15 MR. RANDY MILLER: No.  
16 MS. FRIER: Commissioner Moore.  
17 MR. MOORE: Yes.  
18 MS. FRIER: Commissioner Riley.  
19 MS. RILEY: No.  
20 MS. FRIER: Commissioner Rouson.  
21 MR. ROUSON: Yes.  
22 MS. FRIER: Commissioner Story.  
23 MS. STORY: No.  
24 MS. FRIER: Commissioner Turbeville.  
25 MR. TURBEVILLE: No.

1 MS. FRIER: Commissioner Wilkinson.

2 MR. WILKINSON: No.

3 MS. FRIER: No?

4 MR. WILKINSON: No.

5 MS. FRIER: Commissioner Yablonski.

6 MR. YABLONSKI: No.

7 MS. FRIER: Vice Chair Scott.

8 VICE CHAIR SCOTT: No.

9 CHAIRMAN BENSE: And the vote is 19 to five  
10 against the amendment.

11 Okay. We'll take up Amendment No. 11, the  
12 last amendment, by Commissioner Barnett.  
13 Commissioner Martha Barnett, you're recognized  
14 on your amendment.

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

16 This amendment -- sorry. Thank you,  
17 Mr. Chairman, this amendment is designed to  
18 correct what I think is an unintended  
19 consequence of the language as it now stands in  
20 this proposed constitutional amendment. And I  
21 have spoken with Commissioner Martinez about  
22 this and I -- and he can certainly correct me  
23 if I'm not relating his intentions correctly.

24 But the way the amendment currently  
25 stands, there is a high probability, and in

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1 fact an almost certainty, that this amendment  
2 will change -- will have an impact on the  
3 governance of the state university system and  
4 our system of higher education. And  
5 Commissioner Martinez has assured me that is  
6 not his intention, to impact the governance of  
7 our higher education and the state universities  
8 in the State of Florida.

9 And the way this has happened is just  
10 through the drafting of the amendment as  
11 opposed to I think any deliberate effort to  
12 impact it.

13 So let me just give you a little  
14 background. As you know, there was a -- I  
15 don't remember the year now. I think it was  
16 '98, '99, whenever Senator Graham had a  
17 constitutional initiative that dealt with the  
18 governance of higher education in Florida. It  
19 created the board of governors, the boards of  
20 trustees, and there is a separate provision in

21 the Florida constitution dealing with the  
22 operation, maintenance, and governance of  
23 higher education in the state university  
24 system.

25 And in the process of being implemented,

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1 as you -- most of you probably know, there are  
2 some aspects of it that are controversial. One  
3 that is getting a lot of attention now is  
4 whether the Legislature controls tuition or  
5 whether the board of governors does. And  
6 that's working its way through the system,  
7 including even a constitutional amendment I  
8 think that's been discussed during this  
9 legislative session.

10 We as a Commission have not talked about  
11 that issue. It's not been something that's  
12 really been on our agenda in terms of the  
13 governance.

14 When we took the language that is in  
15 article IX, section 1 dealing with an adequate  
16 provision at law to fund a high quality public  
17 education for free public schools and for



18 higher education, in the current constitution  
19 they are in the same sentence. It's a long  
20 sentence, but they're in the same sentence.

21 When these two sentences were divided  
22 into, one, a sentence dealing with K through 12  
23 free public education, and the second dealing  
24 with the state university system, we now have  
25 an amendment -- I mean, a language that we're

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1 proposing that as a separate section would say,  
2 "Adequate provision shall also be made by law  
3 for the establishment, maintenance, and  
4 operation of institutions of higher learning,"  
5 et cetera.

6 That's your state university system. It  
7 is well settled, unquestioned rule of  
8 construction that the court would look at the  
9 later adopted amendment as controlling. And  
10 because this language would specifically say,  
11 adequate provision shall be made by law for the  
12 operation, for example, of higher -- of  
13 institutions of higher learning, it would  
14 negate the current constitutional provision

15 that vests that authority in the board of  
16 governors.

17 I don't think that was the intent of  
18 Commissioner Martinez, nor do I think really  
19 the intent of this body, or at least I would  
20 hope that it would not be without a lot of  
21 discussion about the implications of that.

22 And so my amendment takes out the period  
23 on lines 21 after the word "education," takes  
24 out the phrase "adequate provision shall also  
25 be made by law" and reverts it back to the way

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1 it is in the current constitution, so that  
2 there is a sentence -- it, of course, includes  
3 this new language that is in the proposed  
4 amendment -- but it is a sentence as opposed to  
5 two separate sentences. And I don't think  
6 creates the -- the issue that I've tried to  
7 articulate. So that is the purpose of the  
8 amendment.

9 CHAIRMAN BENSE: Okay. Commissioner Barnett  
10 having explained her amendment, are there  
11 questions? Commissioner Levesque, you're

12 recognized for a question.

13 MS. LEVESQUE: Thank you, Mr. Chairman.

14 Commissioner Barnett, I like your amendment. I  
15 think it's a good amendment. I think we should  
16 adopt it. So my question is: With my support, do  
17 you think that your close on the amendment could  
18 be a little shorter? That's all.

19 MS. BARNETT: Can I debate that?

20 (Laughter.)

21 CHAIRMAN BENSE: Any further questions?

22 (No response.)

23 Is there debate? Is there debate?

24 Commissioner Martinez, you want to say  
25 something in debate?

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1 MR. MARTINEZ: I just -- on the record, I  
2 support what Commissioner Barnett is doing. It's  
3 not my intention at all to affect what's currently  
4 in the constitution with regards to higher  
5 education or community colleges.

6 Having said that, I would like to have a  
7 peaceful, amicable, and successful resolution  
8 to the debate that's otherwise going on with

9           regards to the state university system. But  
10          it's not my intent to get involved in that  
11          issue with this amendment.

12                 CHAIRMAN BENSE: Further debate?  
13          Commissioner Turbeville in debate. You're  
14          recognized.

15                 MR. TURBEVILLE: I just had a question. Can  
16          we adopt this without objection rather than having  
17          a roll call?

18                 CHAIRMAN BENSE: Okay. Any more debate?

19                 (No response.)

20                 Are there objections to the amendment?

21                 (No response.)

22                 Seeing none, the amendment is adopted.

23          Unanimously, let the records reflect.

24                 Okay. We've gone through the amendatory  
25          process on committee substitute for

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1          Constitutional Proposal 40. We're now in the  
2          question phase. We'll go to the debate phase  
3          and then we'll vote.

4                 Are there questions of the sponsor of the  
5          proposal? Commissioner Barnett, you're

6 recognized for a question.

7 MS. BARNETT: I would like to have -- I'm not  
8 completely sure what this proposal does. I don't  
9 know the scope or intent of the programs that  
10 it -- that it would pick up. I know that the  
11 intent is to allow for vouchers, to allow the  
12 Legislature to create vouchers. I don't know  
13 whether it's intended to apply to charter schools.  
14 I don't know whether it's intended to apply to  
15 virtual schools. I don't know whether it's  
16 intended to apply to a school format that we  
17 haven't even thought of yet.

18 I don't really understand the scope of  
19 what's involved here, and so I'd like  
20 someone -- first I'd like the sponsor or others  
21 who are intimately interested in this issue to  
22 please, if only for the record, to make sure  
23 that we articulate what is the scope of this  
24 amendment.

25 And secondly, I would like someone to give

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1 us information about the fiscal impact of this,  
2 what it means. I think it's very important for

3       us to have an understanding about what burden,  
4       if any, we are placing on the public school  
5       system in Florida. Yesterday we discussed at  
6       length funding public education and the  
7       difficulties in funding public education if we  
8       do away with Required Local Effort.

9           I think it's very important for us to have  
10       some idea of what the fiscal impact of this is  
11       going to be on -- on the funding of education  
12       in Florida. So those were my two questions at  
13       this point, Mr. Chair.

14           CHAIRMAN BENSE: Commissioner Turbeville,  
15       you're recognized.

16           MR. TURBEVILLE: Thank you, Chairman. I know  
17       there were a few questions in there, so I'll try  
18       to specifically address the fiscal impact. In my  
19       previous life, I hate to admit this, but I did  
20       serve on the revenue estimating conference as a  
21       House appointee. It wasn't the most exciting duty  
22       that I've had, but we saw a lot of different  
23       proposals come by. We put fiscal estimates on --  
24       on every bill that passed that session.

25           And I think it's -- the language is pretty

1 clear that there is no fiscal impact to this  
2 language in and of itself. The Legislature  
3 must create laws, and if there are laws  
4 created, there may be fiscal impacts at a later  
5 time based upon their ability to create these  
6 laws.

7 Specifically, though, getting back to  
8 current law, there is a positive fiscal impact  
9 to the state by some of these privately funded  
10 programs, specifically the corporate income tax  
11 credit program is savings of \$70 million to the  
12 state every year. And I won't belabor the  
13 point.

14 Representative Traviesa made this point on  
15 the floor of the House yesterday, that that was  
16 confirmed by Florida TaxWatch, that it was  
17 confirmed by the Collins Center, as well as the  
18 House and Senate staff. Under current law that  
19 program saves \$70 million. If it's challenged,  
20 we don't fix the constitution and it's  
21 challenged, then there would be a fiscal impact  
22 based upon a lawsuit and overturning that

23 program.

24 So in order to keep the savings that the  
25 state has put in place in law, we would need to

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1 adopt this to prevent court challenge and the  
2 cessation of those programs that actually are  
3 saving the state money right now.

4 So, just to recap, the proposal in and of  
5 itself does not have fiscal impact because laws  
6 would have to change in order to create an  
7 impact.

8 CHAIRMAN BENSE: Commissioner Levesque, did  
9 you want to yield -- Commissioner Turbeville  
10 yields to Commissioner Levesque.

11 MS. LEVESQUE: Thank you, Mr. Chair. I agree  
12 with Commissioner Turbeville's point, but I would  
13 even go further to say, all of the current choice  
14 programs that are in existence, every single one  
15 saves the state money. McKay Scholarship saved  
16 the state money, corporate tax credit  
17 scholarships, charter schools, the Florida virtual  
18 school, the K8 virtual schools, every single one  
19 of them saves the state money, operating funds or



20 capital outlay funds.

21 So I would say that reversing the Bush v.  
22 Holmes decision, which protects these programs,  
23 ensures a fiscal savings to the state, and that  
24 if we don't ensure that Bush v. Holmes is -- or  
25 at least that the voters have the option to

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1 vote on reversing Bush v. Holmes, then we could  
2 be creating a fiscal impact, because those  
3 programs are subject to challenge, which goes  
4 back to your original -- the first part of your  
5 question is, what's the scope. And the scope,  
6 I believe, of this amendment is to reverse the  
7 Bush v. Holmes decision.

8 So what was the scope of the Bush v.  
9 Holmes decision? Mr. Meyer and others who  
10 don't want us to do this amendment argue it was  
11 very limited, that it only impacted opportunity  
12 scholarships, that that was it, that the  
13 Supreme Court made it very clear it was just  
14 this one particular program.

15 Supporters of the amendment like myself  
16 argue that it was much broader than that, that

17 when the courts ruled that -- that, at a  
18 minimum and that the Legislature could only  
19 fund a free, safe, secure, high quality uniform  
20 system of public schools, that I would argue  
21 they went far beyond, because they used  
22 examples of statutes that our charter schools  
23 don't have to comply with. And by striking  
24 down the private school option opportunity  
25 scholarships, they were basically saying, these

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1 programs are not identical, therefore they  
2 aren't allowed, and that has broad ranging  
3 impacts.

4 And I'm going to give you an example.  
5 Since the last time that we were here, since  
6 the last time we voted on this measure, there  
7 was a lawsuit filed. And the lawsuit is filed  
8 against the Schools of Excellence Commission,  
9 which some of the members here may not know  
10 about, but it's basically a statewide  
11 chartering authority. Because as I said many  
12 times when we originally proposed this, this is  
13 not solely about vouchers. This is not solely

14 about scholarships to private schools. This is  
15 about any alternative that is different than  
16 the public school system, which charter schools  
17 are, virtual schools are, and other programs  
18 that the Legislature wants to authorize. We  
19 have several school districts in this state  
20 that have never authorized a single charter  
21 school.

22 So the state Legislature created the  
23 statewide chartering authority so that -- so  
24 that there would be another option and another  
25 route for charter schools to be created, and

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1 that -- that system is being challenged, and it  
2 is being challenged based on the Bush v. Holmes  
3 decision.

4 Article IX, section 1A, the opponents of  
5 this charter school system say that it is  
6 unconstitutional because it creates an  
7 alternative system of education; it violates  
8 the constitutional requirement for a uniform  
9 system of public education. As in the Holmes  
10 case, the Legislature through the enactment has

11 created an alternative system to public  
12 education.

13 So the purpose of this amendment is to  
14 protect charter schools. It's to protect the  
15 Schools of Excellence Commission and the  
16 charter schools that will be -- that have  
17 already been authorized, they have already  
18 authorized charter schools to start this fall.  
19 It's to protect virtual education. It's to  
20 protect the McKay Scholarship Program. It's to  
21 protect the alternatives that exist that are  
22 alternatives in the public school system. So  
23 that's what I would say the scope of that  
24 proposal is.

25 CHAIRMAN BENSE: Further questions? We're in

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1 the question phase. Commissioner Miller.

2 MR. LES MILLER: Question of Commissioner  
3 Turbeville. Commissioner Turbeville, you just  
4 said this amendment would have no fiscal impact,  
5 but in the same breath that you said it would have  
6 to be implemented by the Legislature; am I  
7 correct?

8 CHAIRMAN BENSE: You're recognized.

9 MR. TURBEVILLE: Just to clarify. I said  
10 this amendment, it does not have an impact. And  
11 the laws that are on the books right now, as  
12 Commissioner Levesque has mentioned, provide  
13 savings to the state. And so it's actually just  
14 the opposite.

15 If there are additional court cases filed,  
16 as Commissioner Levesque has shown us here  
17 today, that affect those programs that save the  
18 state money, it will do just the opposite if we  
19 don't adopt this. It will cost the state money  
20 if the laws that are currently in effect are  
21 overturned due to a court case that's -- that's  
22 outstanding.

23 MR. LES MILLER: Mr. Chairman, follow-up.

24 CHAIRMAN BENSE: You're recognized.

25 MR. LES MILLER: You only answered part of my

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1 question. The other part of my question was: If  
2 this passes, will the Legislature have to  
3 implement this amendment to create -- they have to  
4 create law for this amendment, correct?

5 MR. TURBEVILLE: I think -- I think the  
6 amendment is pretty clear -- Chairman, thank  
7 you -- that this is self-executing, there are laws  
8 on the books that already provide alternative  
9 methods of schools, and so this amendment is, in  
10 my opinion, self-executing. I think that's pretty  
11 clear.

12 CHAIRMAN BENSE: Further questions?

13 MS. LEVESQUE: Mr. Chairman, if I --

14 MR. LES MILLER: I think Commissioner  
15 Levesque wants to chime in on this, Mr. Chairman.  
16 I yield.

17 CHAIRMAN BENSE: Let's stay in the question  
18 phase. Further questions?

19 (No response.)

20 Okay. Let's go into debate. Is there  
21 debate? Commissioner Lacasa, you're recognized  
22 in debate.

23 MR. LACASA: I've been a supporter of  
24 vouchers throughout my entire political career.  
25 And the reason wasn't because of an animosity

1 towards the education system that we have today,

2 the public education system. It wasn't because I  
3 felt that -- that -- some irrational sense that  
4 the bureaucracy in our public school system was  
5 bloated or unresponsive or inefficient. It wasn't  
6 any of that.

7 It's because I believe in the American  
8 capitalistic free enterprise system. I believe  
9 that -- that, when we look at education, we  
10 have to look at it the same way we look at any  
11 enterprise in our economy, from a macroeconomic  
12 perspective. If you do that, the first  
13 consideration is, how do we efficiently  
14 allocate our resources.

15 To me, an efficient allocation of  
16 resources means an attraction of capital at the  
17 best rates. Capital flows into the public  
18 education system. Everybody is willing to fund  
19 improvements to schools on a tax-exempt basis,  
20 but that's the public paying for all that  
21 capital.

22 If you have private capital flowing and  
23 risk capital flowing into the system, that's a  
24 far more efficient way to fund a portion of our

25 education programs. We don't attract private

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1 capital into education right now because  
2 there's no method to do it. The voucher  
3 program will allow that.

4 I feel also that we sacrifice what any  
5 manager on this panel recognizes as an  
6 incredible tool for improving profitability,  
7 improving results. Profitability here is  
8 degrees, education degrees. That is best  
9 management practices.

10 How does a system as monolithic as the  
11 system we have to today import from other  
12 systems on an efficient and effective basis  
13 best management practices? How does one  
14 system, a public system, learn from a private  
15 system if there is no significant private  
16 system to learn from? This is the essence of  
17 competition. This is the essence of how we  
18 evolve into a lean and mean and efficient  
19 production system -- production of degrees in  
20 this case.

21 You know, vouchers are not new in our



22 society. We voucher health care. I'm involved  
23 now -- I've had the good fortune of being  
24 involved in the healthcare system in our state  
25 by being in the management of a health

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1 maintenance organization. And whatever I  
2 learned in my brief tenure there, I've learned  
3 that we're, A, very heavily regulated, but  
4 we're also learning from each other. We learn  
5 from the regulators; we learn from our peers in  
6 our industry on how to best manage our  
7 industry, because we're -- our sole client is  
8 the Medicare system. We have one payer, the  
9 government, but they voucher.

10 And what happens when they voucher to  
11 public -- to private companies? Individuals  
12 eligible for Medicare get to make a choice.  
13 Who do I get my services from? Who is going to  
14 give me the best services for this dollar? And  
15 what are the centers from Medicare services  
16 saying? Who's going to give us the best bang  
17 for our public dollar?

18 I think that education in this country is

19           probably one of the most sacred, one of the  
20           most important functions that we have, and if  
21           we want to make it better, and if we want to  
22           make it efficient from a financial perspective  
23           as we move forward, we must find better ways to  
24           manage it, macroeconomically sensible ways.  
25           Thank you.

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1                   CHAIRMAN BENISE: Commissioner Miller in  
2           debate. Les Miller.

3                   MR. LES MILLER: Thank you, Mr. Chairman.  
4           First and foremost, this will have a fiscal  
5           impact. If this amendment passes, it has to come  
6           back to the Legislature, and the Legislature will  
7           have to put it into law. There are 320,000  
8           students in private schools, and if this passes  
9           then a voucher of \$3,900 per student, that's a hit  
10          of the budget of \$1.25 billion, so it does have a  
11          fiscal impact. Be ever mindful of that.

12                  Here we go again with the challenge of --  
13          I mean, the debate of -- having a challenge of  
14          the program we have in place right now being  
15          challenged, and again, it's a scare tactic that

16 the programs we have in place right now, being  
17 the McKay Scholarship, being the corporate  
18 voucher and all the other things that's out  
19 there will be challenged because the mere fact  
20 is that if we don't pass this then somebody's  
21 going to put it in the courts, and we're going  
22 to lose.

23 And I say that if you pass this, this will  
24 be challenged, and you will definitely have  
25 those programs challenged. And you could very

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1 well lose them if this is challenged. My  
2 thought process is be careful what you ask for,  
3 because if you pass this, I guarantee you it's  
4 going to be in court, and I guarantee you all  
5 the other things that you don't want to happen  
6 will come forth.

7 And lastly -- I'll be quick. I heard  
8 yesterday someone said well, we want vouchers  
9 because that's what poor people want. Poor  
10 people got to have that. That's what they  
11 request. I represented the poorest district in  
12 the Senate for six years, in Tampa and

13 St. Petersburg and Manatee County, the poorest  
14 district. I still live in that district. I  
15 still live in east Tampa. Poor people don't  
16 want vouchers. Poor people want well-funded,  
17 top quality schools in their neighborhoods.  
18 That's when they want. They don't want  
19 vouchers. So please don't come forth telling  
20 people this is what poor people want, because  
21 this is not what poor people want. Again, they  
22 want top quality public schools, well-funded,  
23 in their districts.

24 This is wrong. It's going to be  
25 challenged, and what you don't want to happen

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1 is going to happen. So again, be careful what  
2 you ask for. When it happens, I'll be the  
3 first to say I told you so.

4 CHAIRMAN BENSE: Commissioner Gelber in  
5 debate.

6 MR. GELBER: Thank you. I think what we're  
7 doing on this bill is terrible, and if this bill  
8 was longer, I would ask you to read it.

9 (Laughter.)

10           A couple issues, and I really do -- I  
11           mean, first of all on the savings, everybody  
12           talks about the savings to these programs.  
13           It's pretty much theoretical, because if you  
14           take 20 kids out of a school, you're not saving  
15           money to the school system, because you still  
16           are paying for the same teachers and capital  
17           expenditures and energy and everything else, so  
18           that, whenever we talk about it in the  
19           Legislature, we also know it's a theoretical  
20           savings, but it's not an actual savings.

21           And there's another downside, lots of  
22           these programs when you privatize. I did  
23           oversight for the United States Senate into  
24           public education. They're rife with fraud, and  
25           in fact we've seen -- in fact, even in the

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1           corporate tax credit program, a couple of the  
2           scholarship funding organizations were, in  
3           fact, guilty of fraud. And, ironically, the  
4           state attorney argued it was public money at  
5           that time and the -- and they had to change  
6           their view on whether or not it was public

7 money or not in the course of the trial.

8 But the thing I think -- and that's a  
9 minor point -- I think the larger point is, we  
10 will be the first state, I believe, to create a  
11 mandate for publicly financed private  
12 education. Imagine that. I mean, this year  
13 the Legislature is going to be cutting --  
14 because of our cuts to education, we're going  
15 to be cutting after-school programs, reading  
16 coaches, police officers, security officers in  
17 school. We're going to be cutting -- we're  
18 going backwards.

19 And we're going to, while we announce  
20 that, also put on the ballot to the whole --  
21 for the whole world to see that we are the  
22 first state I think to create an actual mandate  
23 for these kinds of programs, and I don't  
24 understand why you want to do that.

25 And all you folks who think this is a

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1 great idea, be very careful what you ask for.

2 If it fails, you know, because this governor is  
3 going to have at least three Supreme Court

4       appointments, maybe more, but it's going to be  
5       very easy for this Supreme Court to understand  
6       what the will of the people is when this thing  
7       fails and it's very clear that nobody wants  
8       these programs to be supported by the  
9       Legislature.

10            So be careful what you ask for. You may  
11       be creating the best legislative intent ever  
12       for what you fear happening, because what you  
13       fear happening hasn't happened. It hasn't  
14       happened. All of these other programs you talk  
15       about, ironically, they were all created by the  
16       Legislature, which ironically has exactly the  
17       same ability to put things on the ballot. I  
18       don't know why you think it's within your  
19       mandate or your province or your -- or the  
20       heartland of your mission to go into school  
21       vouchers when all the programs you're talking  
22       about were created by the exact same  
23       Legislature that has the ability to do exactly  
24       what you're doing right here.

25            So maybe you think that it is your job,

1 but I don't think it is. I think your job and  
2 the job of this Commission is to reform  
3 Florida's tax system. I think if you asked the  
4 average Floridian whether the people they were  
5 hoping would provide thoughtful relief and  
6 reform to Florida's dysfunctional and  
7 inequitable tax system, if they spent a minute  
8 of their day on vouchers for public education,  
9 they would be shot, as they rightfully should  
10 be.

11 You know, I make a living over at -- I  
12 don't really make a living there, I work down  
13 the hall; and I often have to say things to  
14 people I like that makes everybody feel  
15 uncomfortable. But I think that's really my  
16 job as a minority leader, but it's also my job  
17 here to tell you: I think this is as  
18 wrong-headed a proposal as this Commission  
19 could come up with.

20 And I always go to -- one of my favorite  
21 poems is by Katharine Lee Bates. She wrote it  
22 driving from the World's Fair I think in 1896,  
23 and it was a beautiful poem that later became



24 the song America the Beautiful. And in its  
25 second or third verse there's a line that says,

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1 "Confirm thy soul through self-control, thy  
2 liberty through law." And I always thought of  
3 that as counseling restraint, that sometimes  
4 simply because you have the power and the  
5 authority to do something, doesn't mean you  
6 should always use it, because sometimes  
7 restraint is really what a democracy needs.

8 And this is one of those occasions. You  
9 do not need to do this. There are plenty of  
10 other folks better postured to do it, and you  
11 have a mandate that I think was pretty  
12 important that you ought not take with  
13 something that is clearly a frolic, and I  
14 believe ideologic reform. This is not what we  
15 ought to be doing, something you ought to be  
16 doing, and I urge you to vote no simply for  
17 that reason.

18 CHAIRMAN BENSE: Commissioner Kyle in debate.

19 MR. KYLE: Thank you, Mr. Chair. I, of  
20 course, support the measure. I'd like to touch on

21 a few things that have been talked about already.

22 The fiscal no-issue. There is no fiscal  
23 impact from this amendment, from this measure.

24 There will be no fiscal impact from this  
25 measure if it is enacted, because basically the

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1 funding for our school system, although they  
2 complete every year with everything else, they  
3 compete every year for their money with the  
4 Legislature, and the money they get is  
5 basically -- if you want to put it down in its  
6 most simplistic form -- is based on the number  
7 of students they have in their district.

8 And they get -- there's a formula that  
9 probably would take up most of that wall if you  
10 wrote it up the side, because they get extra  
11 money for special needs kids, if they have a  
12 reduction in the school year, because there's  
13 almost basically what would be called the  
14 census.

15 If they have a reduction, then they lose  
16 some of the money because they're not teaching  
17 those kids. But if they have a certain number

18 of kids, they come to the Legislature to  
19 compete for their money. It's stuck in that  
20 formula. They will get that amount of money  
21 for the kids they are teaching.

22 Will there be a decrease in the funding if  
23 there is a program that is enacted for  
24 vouchers? Yes. But the decrease will be in  
25 the number of kids whose parents choose not to

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1 send them to those schools and choose to send  
2 them to another school. Why would they get  
3 money for children they are no longer teaching?  
4 There will be no fiscal impact even if it is  
5 enacted.

6 We heard some -- a lively debate yesterday  
7 on CP02, and one of the commissioners said, you  
8 know, it's the people's money. They're smart.  
9 Let them decide. Well, why wouldn't we let  
10 them decide on how they want their money  
11 expended as well? I think this is clearly  
12 within the purview of this Commission, as this  
13 deals with the expenditure of funds, and  
14 whether or not the Legislature has the

15 opportunity to create an alternative system,  
16 especially for schools that are failing.

17 I think the public is knowledgeable, and  
18 Commissioner Gelber says, you know, you may not  
19 like the result. Well -- but they deserve to  
20 be heard on the issue, and maybe the people who  
21 support the measure won't like the result.  
22 Maybe it will be no. So be it. But give them  
23 the opportunity to decide whether or not they  
24 want their Legislature to expend the funds in  
25 this manner. If they don't, they'll vote it

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1 down; and if they do it and they don't like the  
2 way the Legislature is doing it, they'll vote  
3 them out.

4 And just because the Legislature can do it  
5 doesn't mean that, you know, we should just  
6 ignore it, because it does come within our  
7 purview. If we just ignore it, well, why did  
8 we do CP02? The Legislature could do that.  
9 Why are we doing that? They could do it.  
10 Because there are some things that they just --  
11 that are difficult issues that they can't

12 tackle, which is why we exist, and which is why  
13 we should give the people an opportunity to be  
14 heard on this issue.

15 And lastly, I think if you go talk to any  
16 parent -- I don't care, rich, poor, whatever --  
17 and who has children and you ask them, what  
18 kind of education do you want for their child?  
19 They're not going to say well, I want a good  
20 public-funded education, public school.  
21 They're going to say no, I want the best  
22 education for my child. They just want the  
23 best, and they should have a choice, an  
24 opportunity to decide what is the best  
25 education for their child. Give them that

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1 choice. Give them an opportunity to be heard  
2 on it. If it's no, again, so be it. I support  
3 the measure. Thank you, Mr. Chair.

4 CHAIRMAN BENSE: Further debate? Further  
5 debate.

6 (No response.)

7 Okay. I think members know where they are  
8 on the issue. Commissioner -- oh, Commissioner

9 Barnett, you're recognized in debate.

10 MS. BARNETT: I saw Commissioner Levesque and  
11 others --

12 CHAIRMAN BENSE: I think she got her debate  
13 in during the question phase.

14 Commissioner Johnson.

15 MS. JOHNSON: I was listening carefully, as I  
16 always do, to Senator Miller, Commissioner Miller,  
17 and I agree with the things that he said. Again,  
18 I reach a different conclusion, but I think we  
19 agree with the end result.

20 The high quality education, and that's  
21 what, whether you're working class, whether  
22 you're the upper income, that's what we're all  
23 trying to achieve for our children, and for our  
24 state, because we also have to have a strong  
25 workforce. And I stand back and look again at

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1 our task and our role and what we're trying to  
2 accomplish for the next 20 years.

3 We are entering a time of global  
4 competitiveness. We are entering an  
5 information age. And we have to arm ourselves,

6       our workforce, and our students with the best  
7       possible education.

8           Our current public education system is not  
9       bad. But it must be better, so how do we get  
10      it there? And the way I view this, as a  
11      win-win. We get the opportunity to burn the  
12      candle at both ends.

13          Under the leadership of people like  
14      Senator Miller, our educational system over the  
15      last several years has improved. There's more  
16      accountability; all students are doing better.  
17      I believe that our teachers, our communities,  
18      our students, our parents should be applauded.  
19      But it still must be better. And I support  
20      continuing to fund education at the most  
21      responsible and highest levels to achieve those  
22      efficiencies.

23          But in the meantime, we have people that  
24      are being left behind. We have people that  
25      live in all communities that could benefit from

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1       some choice, choice that does not weaken the  
2       public education system but makes us all

3 stronger and better. I would hate to have  
4 those in communities that don't have perfect  
5 schools to not have the opportunity to reach  
6 out and do better now, not just for those  
7 people but for all of us. I would hate for us  
8 to not have a mechanism that would allow us to  
9 prepare a workforce that we need for the next  
10 20 years.

11 So I say that this is a good proposal,  
12 that it allows us to do several things.  
13 Continue to support our public school systems  
14 and continue to support the choice that is  
15 needed to provide a competitiveness in the  
16 quality of education today without delay, to  
17 improve our workforce, to empower parents, and  
18 to give these students choice. I support this  
19 very good amendment.

20 CHAIRMAN BENSE: Commissioner Rouson in  
21 debate. You're recognized.

22 MR. ROUSON: Thank you very much, Mr. Chair.

23 On August 14th, 1874, Jonathan Clarkson  
24 Gibbs, II, died. And I think he dies again  
25 today. Educated man from Princeton Theological



1       Seminary who opened up several schools when  
2       black children were not allowed in certain  
3       other schools, and entered his prominence when  
4       he became the first black secretary of state in  
5       Florida and the first black superintendent of  
6       public instruction. In St. Petersburg we have  
7       a high school named after him.

8               But I can understand why he elevated to  
9       this position of superintendent of public  
10      instruction and how the constitution created  
11      the board of education, and largely he's  
12      credited with the public school system as we  
13      know it today.

14             We must find ways to continue building on  
15      the quality of a free public school system and  
16      not do things that create a crack in the wall  
17      and threatens the entire foundation of a free  
18      public school system. And to me, this does  
19      just that.

20             And I would urge my fellow commissioners  
21      to vote against this amendment.

22             CHAIRMAN BENSE: Commissioner Barnett, you're

23 recognized in debate.

24 MS. BARNETT: Thank you, Mr. Chairman. I  
25 believe that a free public school system, free

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1 public education is the cornerstone of a free  
2 society. I believe that education is the great  
3 equalizer --

4 UNIDENTIFIED SPEAKER: Amen.

5 MS. BARNETT: -- and it is the hope of every  
6 parent that their child will get a great  
7 education. I understand that different people  
8 require different kinds of education and that we  
9 need to accommodate that. But I believe that  
10 public dollars should be spent on public  
11 education. And I believe the people of the State  
12 of Florida agree with me on that.

13 If you look at article IX, section 1, and  
14 by now all of us know these words by heart.  
15 But I just want to remind each of us that the  
16 people in the State of Florida have said, the  
17 education of children is a fundamental value of  
18 the people of the state, and that it's a  
19 paramount duty to provide a high quality free

20 public education.

21 If we adopt this proposal and it's adopted  
22 by the people of Florida, it will require the  
23 Legislature to divert public dollars into  
24 private education. That's the intent.

25 Certainly, the focus and the heartstring that

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1 gets pulled is the vouchers, but in truth this  
2 will require public funding of private  
3 education.

4 I disagree with those who say it has no  
5 fiscal impact. At a minimum you are diverting  
6 public funds out of the education system when  
7 you take the kids out of the public education  
8 system. But it's a much more complicated  
9 answer than that.

10 If you look at what's happened to public  
11 education in the last two years, and if you  
12 read anything, you know that we are barely  
13 meeting the needs of the state today. We are  
14 barely providing an adequate public education.

15 This proposal will raise questions about  
16 the uniformity, which is another constitutional

17 mandate, a uniform education, when you have it  
18 out of the public school system and into  
19 alternatives we don't even know what they are  
20 today.

21 In 2007/2008, \$565 million were taken out  
22 of the FEFP. That's the public -- that's the  
23 funding formula. 2008/9, this year,  
24 \$362 million are coming out of the system.  
25 This doesn't count some of the property tax

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1 issues that we've all heard about. There's not  
2 enough money for public education today.

3 And I am very concerned, not about the  
4 opportunity scholarships or the 700 or 800 or a  
5 thousand kids who took advantage of those.  
6 That's not a lot of money. I'm not concerned  
7 about them. I would hope that they would have  
8 an opportunity in the public system, or  
9 otherwise, but I am concerned about, I think as  
10 Commissioner Rouson said, not just the crack in  
11 the wall but the hole in the dam, and that this  
12 is going to undermine public education in  
13 Florida.

14           If I'm right, I think you have to  
15       calculate the fiscal impact of this based on  
16       the potential that you would fund, that people  
17       would demand public dollars for private  
18       education. And you look at the number of  
19       students today being educated in the private  
20       system, and it is over a billion dollars  
21       potentially coming out of state dollars,  
22       taxpayer dollars, for private education.

23           I voted yesterday for CP2, because I  
24       believe that we need to find a way to relieve  
25       the property tax burden for people in this

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1       state. I heard them loud and clear. But I  
2       voted for that with a lot of reservations,  
3       because I also heard from people in the school  
4       system about their concern about losing a  
5       stable source of revenue. And because I am  
6       such a believer in the constitutional promise  
7       of high quality public education for the  
8       citizens, for the children of this state.

9           I think this is going to add another  
10       billion dollars, potentially. May not be year

11 one, year two, year three, but it's going to  
12 add another billion or \$2 billion to the  
13 burden, that now we're going to be asking our  
14 Legislature to find those dollars. They're  
15 going to have to find those dollars somewhere.

16 I don't know if the burden is too much.  
17 It's made me worry about what we're doing in  
18 the combination of these two proposals and the  
19 impact it's going to have on public education.

20 I appreciate, deeply appreciate the  
21 concerns of Commissioner Martinez and Levesque  
22 and Lacasa and others. I know they come at  
23 this out of a deep concern for children too.  
24 It's just -- it's one of those times where I  
25 think people with a common goal see a different

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1 way to get there.

2 I cannot support this. And I would ask  
3 that each of you look into your heart and  
4 whether we can put this kind of burden on the  
5 taxpayers of Florida and whether we can  
6 jeopardize Florida's public education system.

7 CHAIRMAN BENSE: Further debate?

8 Commissioner Martinez in debate.

9 MR. MARTINEZ: Mr. Chairman, thank you. I'm  
10 going to not try to be repetitive. I just want to  
11 close up and address a couple points here.

12 I think that what we're proposing at this  
13 stage with all of the amendments is a very  
14 measured, very prudent amendment that has  
15 improved significantly during this process.  
16 Through the suggestions of Commissioner  
17 Barnett, through some of the comments made by  
18 my colleague to my right, who nonetheless is  
19 against it, we have made amendments to the  
20 amendments to refine it, to make it measured,  
21 to make it more prudent.

22 My colleague to my right, Commissioner  
23 Gelber, says that we will be the first state to  
24 mandate a public financing private education.  
25 Well, that's not correct. Not that we were the

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1 second or third, it's just that we're not going  
2 to be doing that at all.

3 And to make that absolutely clear, this  
4 Commission has passed language unanimously,

5 adding the last sentence of a subsection, which  
6 makes it very clear that we're not creating an  
7 entitlement to a publicly financed private  
8 program. So through the process of this  
9 Commission, we've improved upon that, and we've  
10 made sure that the mandate does not exist.

11 As far as the fiscal impact -- I don't  
12 take offense to this -- our Government Services  
13 Committee issued a report on public education.  
14 You've heard me refer to this before. I have a  
15 copy right here. It may have run out in the  
16 bookstore. You're welcome to get it. It's a  
17 hundred and some pages long.

18 And in it they are summarizing on pages 17  
19 through 19 the presentation from the Collins  
20 Center. A nonpartisan nonpolitical group, they  
21 came to us to talk about innovation and  
22 efficiencies in education. And they mention in  
23 particular the choice programs that we have in  
24 our state. And through their computation --  
25 we've summarized it -- they presented

1 information that stated, according to them, the



2 total taxpayer savings of the choice programs  
3 in our state amounted to \$4,465,435,449.

4 That's a lot of billions. And it's  
5 certainly something that was useful before the  
6 economic downturn and is going to be even more  
7 useful as we go into the next couple years. So  
8 not only is, in my opinion, the school choice  
9 option a good thing for kids, but it's also a  
10 good thing for our state fiscally as well as in  
11 other matters.

12 Let me just close by saying this. If we  
13 vote this out today, this doesn't become the  
14 law. It goes on the ballot, and the people  
15 will vote for it or against it. And it's going  
16 to be -- it's going to be a high hurdle to get  
17 it passed. I'm well aware of that. Any of the  
18 process, whether it gets passed or not, there's  
19 going to be a lot of attention focused on  
20 education. And that in and of itself is a  
21 great thing. You will have the whole state and  
22 the people and the parents and the educators  
23 involved in a debate on our public education  
24 system and on the education of our kids. And

25 from that process will come many good things.

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1 So I encourage you to vote for this  
2 proposal, not only because it is good on the  
3 merits, but because it will give the people of  
4 the state an opportunity to decide for  
5 themselves whether they want this in our  
6 constitution. Thank you.

7 CHAIRMAN BENSE: Further debate? Further  
8 debate?

9 (No response.)

10 Okay. Seeing none, Commissioner  
11 Turbeville, you're recognized to close on your  
12 proposal.

13 MR. TURBEVILLE: Thank you, Chairman. Thank  
14 you, members. History repeats itself. And we  
15 have seen recently that education options are  
16 being challenged in court and those options are  
17 being taken away from parents and from students.

18 As we've heard the debate today, I think  
19 it's pretty clear, there is no mandate for a  
20 private program that's explicitly written in  
21 this proposal, and I think it's also clear that

22       there's no negative fiscal impact to this  
23       proposal. In fact, as Commissioner Martinez  
24       mentions, there's some positive impact for the  
25       state; and it's positive for a couple of

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1       reasons. And I'll just give you one example.

2             A parent who's working two jobs and who's  
3       benefiting from a scholarship program to go to  
4       a private school, that's -- that's savings from  
5       the state. If the parent was not willing to  
6       sacrifice and work and pay the difference  
7       between what that scholarship provides and what  
8       the tuition is in the private school, that  
9       parent and that child would be going to a  
10      public school every day and the state would be  
11      paying a much higher per person funding level  
12      for that student.

13            So I would hope that we would vote for  
14      this. I think we're all pretty sure of where  
15      we are on the votes today. I don't think this  
16      debate on my part or the close is going to  
17      change anyone's opinion.

18            But the education options are important

19 and they're important because children are not  
20 uniform. They learn in different ways, and so  
21 I hope we'll work together, pass this, and  
22 allow the Legislature and parents in the future  
23 to have a system that addresses all the needs  
24 of students in the state. Thank you.

25 CHAIRMAN BENSE: Okay, members, Commissioner

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1 Turbeville having closed, the question recurs on  
2 first passage of committee substitute for  
3 Constitutional Proposal 40 as amended.

4 Nancy, please call the roll.

5 MS. FRIER: Chair Bense.

6 CHAIRMAN BENSE: Yes.

7 MS. FRIER: Commissioner Barney Barnett.

8 MR. BARNETT: Yes.

9 MS. FRIER: Commissioner Martha Barnett.

10 MS. BARNETT: No.

11 MS. FRIER: Commissioner Bostick.

12 MR. BOSTICK: Yes.

13 MS. FRIER: Commissioner Corcoran.

14 MR. CORCORAN: Yes.

15 MS. FRIER: Commissioner D'Alemberte.

16 MR. D'ALEMBERTE: No.  
17 MS. FRIER: Commissioner Hogan.  
18 MR. HOGAN: Yes.  
19 MS. FRIER: Commissioner Johnson.  
20 MS. JOHNSON: Yes.  
21 MS. FRIER: Commissioner Kyle.  
22 MR. KYLE: Yes.  
23 MS. FRIER: Commissioner Lacasa.  
24 MR. LACASA: Yes.  
25 MS. FRIER: Commissioner Levesque.

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1 MS. LEVESQUE: Yes.  
2 MS. FRIER: Commissioner Martinez.  
3 MR. MARTINEZ: Yes.  
4 MS. FRIER: Commissioner Mathis.  
5 MS. MATHIS: Yes.  
6 MS. FRIER: Commissioner McKay.  
7 MR. MCKAY: Yes.  
8 MS. FRIER: Commissioner McKee.  
9 MR. MCKEE: No.  
10 MS. FRIER: Commissioner Les Miller.  
11 MR. LES MILLER: No.  
12 MS. FRIER: Commissioner Randy Miller.

13 MR. RANDY MILLER: Yes.  
14 MS. FRIER: Commissioner Moore.  
15 MR. MOORE: No.  
16 MS. FRIER: Commissioner Riley.  
17 MS. RILEY: Yes.  
18 MS. FRIER: Commissioner Rouson.  
19 MR. ROUSON: No.  
20 MS. FRIER: Commissioner Story.  
21 MS. STORY: Yes.  
22 MS. FRIER: Commissioner Turbeville.  
23 MR. TURBEVILLE: Yes.  
24 MS. FRIER: Commissioner Wilkinson.  
25 MR. WILKINSON: Yes.

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1 MS. FRIER: Commissioner Yablonski.  
2 MR. YABLONSKI: Yes.  
3 MS. FRIER: Vice Chair Scott.  
4 VICE CHAIR SCOTT: Yes.  
5 CHAIRMAN BENSE: And by your vote the  
6 proposal passes, 19 to six.  
7 Why don't we take about a ten-minute break  
8 here. Just to complete the order of day, we're  
9 going to take up CP26 here in about 15 minutes,

10           about 10:45. After that, pass or fail, the  
11           Style and Drafting Committee will meet. The  
12           staff of the Style and Drafting has already  
13           begun working, so it's a work in process.  
14           Also, reminder that there is public testimony  
15           on CP26. So if you would like to speak, be  
16           sure to fill out a form.

17                     MS. BARNETT: Mr. Chairman?

18                     CHAIRMAN BENSE: We'll come back after Style  
19           and Drafting -- after Style and Drafting, we'll  
20           come back for the motion to adopt the order and  
21           majority vote to accept the recommendations, and  
22           then final passage.

23                     (Brief recess was taken.)

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CERTIFICATE OF REPORTER

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6   STATE OF FLORIDA                     )

7 COUNTY OF LEON )

8

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

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

18 WITNESS my hand and official seal this 25th  
19 day of April, 2008.

20

21

22

23 \_\_\_\_\_  
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