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CONSTITUTION REVISION COMMISSION

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

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

4 CHAIRMAN BERUFF: Thank you. My favorite
5 part of the meeting, use the gavel.

6 Commissioners and guests, please rise for
7 the opening prayer to be given by Commissioner
8 Lester.

9 COMMISSIONER LESTER: Good morning. You
10 notice how sweetly she does that quorum call in
11 that sweet little voice instead of just saying
12 sit down and shut up, it is time to start. So
13 thank you for that sweet spirit.

14 Let us pray.

15 Father, we come together mindful of those
16 wonderful words of wisdom. This is the day the
17 Lord has made. We will rejoice and be glad in
18 it. We do gather in a spirit of joy for we
19 have the opportunity to work for freedom, to
20 work for the people of Florida.

21 So bless our work today. Help us to work
22 together in a spirit of mutual encouragement
23 and respect, help us to listen well, to speak
24 with clarity, and to work hard for our freedom
25 and for this great nation and for the people of

1 Florida. Amen.

2 CHAIRMAN BERUFF: Thank you.

3 The pledge of allegiance will be led by
4 Commissioner Solari.

5 COMMISSIONER SOLARI: I pledge allegiance
6 to the flag of the United States of America and
7 to the republic for which it stands, one nation
8 under God, indivisible, with liberty and
9 justice for all.

10 CHAIRMAN BERUFF: We are going -- without
11 objection, we are temporarily postponing
12 Proposal 55 by Commissioner Kruppenbacher and
13 Proposal 96 by Commissioner Cerio.

14 I would like to acknowledge Commissioner
15 Heuchan to walk us through the process so
16 everybody is better aware of how this thing
17 will ultimately end up on the ballot.

18 Commissioner Heuchan is recognized.

19 COMMISSIONER HEUCHAN: Thank you, Mr.
20 Chairman, and good morning, everyone.

21 I have been asked repeatedly by a number
22 of you how we see the plane landing with safely
23 everyone aboard. I took a great deal of time
24 to draft and write a memo that was circulated
25 to you all last week. I got a lot of input on

1 drafts of that memo, but I did spend a lot of
2 time on it. It does answer a lot of the
3 questions that I -- that I have heard.

4 There was -- there's one piece, and it was
5 brought up several times yesterday in public
6 and even, you know, discussions that we've had
7 on the floor as individuals about the role and
8 the authority of Style and Drafting going
9 forward, and we also heard yesterday often
10 that, well, we'll have Style and Drafting fix
11 it, and that -- that is -- that is a growing
12 concern to me.

13 But in all seriousness, Style and
14 Drafting, my vision and understanding, not just
15 because it says so in the rules, but in talking
16 with people that have been on Style and
17 Draftings in other CRCs -- we have Commissioner
18 Levesque here, who was the Style and Drafting
19 Chair of the Tax and Budget Reform Commission,
20 their rules were some similar, some different
21 than ours.

22 But in talking with lots of people,
23 President D'Alemberte and others, Martha
24 Barnett and others who have done this is -- and
25 I share this view -- the Style and Drafting

1 Committee is there exclusively to serve at the
2 pleasure of you. And my further belief is that
3 irrespective of personal feelings that I might
4 have as the Chairman or I might have as a
5 single voice or any one of us might have is
6 that when proposals get to Style and Drafting,
7 it doesn't matter anymore whether I like them.

8 They are the will of this body, and I am
9 committing to you that it is going to be stuck
10 to rigorously by me to the extent that I can do
11 that, that we become stewards of those
12 proposals because that's what we owe you.

13 Now -- so there's -- there's lots of
14 things that are clear in the -- in what the
15 Style and Drafting Committee can do. We can --
16 we have to order them. We can group them, we
17 don't have to, we may. And that's going to be
18 the subject of lots and lots of discussions and
19 considerations that may be difficult, they may
20 not be difficult, but it is going to come one
21 way or the other because we have these duties,
22 not just to one another, but to the voters of
23 Florida to give them things for their
24 consideration that they understand, they
25 clearly understand, and it is not hard for them

1 to digest it.

2 So in that sense, they are consumers of
3 our work. We are essentially selling them a
4 product. We hope that they buy it. So we are
5 going to do all we can to meet our duty and our
6 obligation to do that.

7 There was one piece in my beautifully
8 written memo that was perhaps less clear, and
9 that is this notion of how much authority does
10 the Style and Drafting Committee have to -- to,
11 as President Gaetz said, kind of rub off the
12 burrs, rub off the rough edges, technical
13 things, things that might have been even -- you
14 know, even as fervently as we've been working
15 on some of the amendments, they're -- they're
16 not -- we can easily do those things, right,
17 and I have no doubt that you'll give us the
18 confidence that we need to do those things.

19 On other things, substantive things, there
20 are two rules, at least two, that we should
21 consider. Rule 2.14 says that committees, any
22 committee, can make changes to proposals. So
23 Style and Drafting is included in that.

24 There is another proposal, or another
25 rule, Rule 5.4, Subsection 2, that essentially

1 says that the Style and Drafting may recommend
2 changes.

3 So I will tell you that it -- it makes no
4 difference to me -- and I'm -- again, I am just
5 as one person. There's 11 people on that
6 committee, and that committee is going to be
7 governed by a majority, just like every other
8 committee. So I will defer to the wisdom of
9 that committee. That committee has -- it's the
10 largest committee of our Commission.

11 There are many brilliant people on that
12 committee. So that committee is going to
13 decide how it is going to behave by that
14 majority rule. That's how we do things.

15 So with that, I will only tell you that,
16 yes, we can -- I mean, my -- my view is we can
17 certainly clean things up easily. We could
18 amend things that maybe are less technical and
19 more substantive, and we heard a lot of that
20 yesterday, and that's okay -- that's completely
21 okay with me. And I -- like I said, the
22 committee is there to serve -- to serve at the
23 pleasure of you all, and so we will do every
24 bit of work that you send to us, we will do it
25 in the manner and dignity that we have already

1 seen through the committee process and just
2 even yesterday.

3 So I don't know what else you would want
4 from me, but the memo is quite clear, actually,
5 about how things will move, right. So we're
6 going to pass things, we passed things off this
7 floor yesterday. Those were done by a majority
8 vote, they were committed to Style and
9 Drafting, and we can order those, we can group
10 those, we may not group those, and then those
11 will come back to this Commission in the form
12 of reports.

13 They are called a Style and Drafting
14 Committee report. Those reports are
15 essentially -- Senator Joyner mentioned this
16 yesterday -- when they come back, it's
17 essentially -- in kind of legislative
18 nomenclature, Bills on third reading or Bills
19 on final passage. That's what -- that's what
20 we're doing at that point, and that -- at that
21 point, it takes 22 votes to amend it, it takes
22 22 votes to send it to the Secretary of State,
23 all of which we have to do by May 10th.

24 So, you know, that's it. I mean, that's
25 where the rubber meets the road for us. So I

1 will just commit to you that whatever work that
2 you all send to that committee will -- will be
3 done in the most judicious way, in the most
4 consent-driven way, in the most deferential way
5 that we can to honor what was said on this
6 floor.

7 And, I mean, I -- I'm just -- I'm just
8 telling you I think we're going to do a good
9 job for you. And so whatever authority -- the
10 rules do give us authority to do these things,
11 and we will do them, and we will do them
12 wonderfully, I think. So --

13 CHAIRMAN BERUFF: Thank you, Commissioner
14 Heuchan, for that explanation that should
15 clarify for all the members how the process is
16 going to work. I certainly believe that you
17 will do a tremendous job. I have no doubts
18 about that.

19 You're recognized.

20 COMMISSIONER HEUCHAN: Yes, sir. And, Mr.
21 Chairman, if there's -- sometimes I ramble, so
22 if there's anything that you all would like to
23 ask, you're welcome to.

24 CHAIRMAN BERUFF: Commissioner Rouson is
25 recognized.

1 COMMISSIONER ROUSON: Thank you very much,
2 Mr. Chair.

3 So some of us yesterday in debate
4 indicated that we might vote for or against a
5 proposal that day, but see what it looks like
6 when it comes back from Style and Drafting. We
7 will get an opportu- -- you may make some
8 changes, either editorial or substantive, to
9 the proposal and then send it back on third
10 reading; is that right?

11 COMMISSIONER HEUCHAN: That is correct.

12 COMMISSIONER ROUSON: And at that point,
13 we would have an opportunity to either debate
14 it, or do we get third-reading questions?

15 CHAIRMAN BERUFF: We do not have
16 third-reading questions. It's the next
17 consideration. I'm just repeating what the
18 person who really knows what we're doing here.

19 COMMISSIONER ROUSON: Thank you. And I'm
20 just trying to relate it to the process that I
21 do know and in terms of the process that I'm
22 learning.

23 So we don't get to ask questions. We
24 would get to debate it, and then it goes for an
25 up or down vote. Takes 22.

1 COMMISSIONER HEUCHAN: Yes, yes.

2 CHAIRMAN BERUFF: Yes.

3 COMMISSIONER HEUCHAN: And it could be
4 amended as well.

5 CHAIRMAN BERUFF: Commissioner Cerio is
6 recognized.

7 COMMISSIONER CERIO: Thank you.

8 CHAIRMAN BERUFF: You guys are eating into
9 my productivity here.

10 COMMISSIONER CERIO: I apologize,
11 Mr. Chair.

12 Commissioner Heuchan, my recollection is
13 that the rules do allow for an amendment to
14 proposals that come out of Style and Drafting
15 by 22 votes. So if you can amend, it's -- it's
16 not a straight up or down vote. I -- and
17 forgive me, and I am on Style and Drafting, but
18 I thought that there -- when the proposals come
19 back, there would be discussion, debate, just
20 like any other proposal. That's not the case?

21 COMMISSIONER HEUCHAN: No. I mean, my
22 expec- -- well, certainly our rules provide for
23 amendments --

24 COMMISSIONER CERIO: Right.

25 COMMISSIONER HEUCHAN: -- on the report.

1 Those amendments have that same vote threshold
2 and --

3 CHAIRMAN BERUFF: Commissioner Cerio.

4 COMMISSIONER CERIO: Thank you, Mr. Chair,
5 I apologize.

6 I think some people heard that if there's
7 no third reading, that it is -- proposal comes
8 back, it's an up or down vote with no debate.
9 And that is not the case, correct?

10 COMMISSIONER HEUCHAN: That is not --

11 CHAIRMAN BERUFF: Commissioner Heuchan.

12 COMMISSIONER HEUCHAN: I'm sorry, Mr.
13 Chairman.

14 No, sir -- no, Commissioner Cerio, that's
15 not my understanding of it, and I didn't mean
16 to say that and I shouldn't have mentioned the
17 third reading. I was only doing that for the
18 benefit of those that understand that process.

19 CHAIRMAN BERUFF: Commissioner Cerio.

20 COMMISSIONER CERIO: And just last point
21 for clarification. There will be an
22 opportunity for questions as well?

23 CHAIRMAN BERUFF: Commissioner Heuchan.

24 COMMISSIONER HEUCHAN: I don't know of
25 anywhere in our rules that say I can't take

1 questions or that -- that the -- yes.

2 COMMISSIONER CERIO: Thank you, Mr. Chair.

3 Just wanted --

4 CHAIRMAN BERUFF: Okay.

5 COMMISSIONER CERIO: -- to clarify.

6 CHAIRMAN BERUFF: Has every --

7 Commissioner Stemberger is recognized.

8 COMMISSIONER STEMBERGER: Commissioner
9 Heuchan, can you explain to this body and to
10 the members of the public that might be
11 listening why we put the summary of the
12 proposal and not the actual language on the
13 ballot so that people don't see the actual
14 language, why they only see the summary?

15 COMMISSIONER HEUCHAN: Well, I don't know
16 the legal reasons why. I could tell you the
17 practical reasons why. I mean, if you look at
18 any number of these proposals, there is -- you
19 would have a ballot that's literally 150 pages
20 long.

21 As it is, we will -- you know, depending
22 on how many the Commission passes, whatever
23 numbers there are, those will consume real
24 estate on the ballot. But, again, it's kind of
25 something that Commissioner Diaz had mentioned

1 yesterday. It is a balance between -- it is a
2 delicate balance between providing this clear
3 and concise language so that voters understand
4 what they're voting on, and at the same time
5 don't -- don't have them in the ballot box for
6 an hour.

7 Who -- so -- and there's consequences to
8 that, there's lines out the door. And so we --
9 we -- no, the language of the proposals do not
10 go on the ballot. Only the title summaries go
11 on the ballot.

12 CHAIRMAN BERUFF: Thank you. Commissioner
13 Donalds is recognized.

14 COMMISSIONER DONALDS: Mr. Chair.

15 Question: When Style and Drafting is
16 finished with their work, they may recommend
17 amendments back to the full body which require
18 22 votes to adopt. Can other Commissioners at
19 that point who are not on Style and Drafting
20 also bring amendments to the floor at that
21 time?

22 CHAIRMAN BERUFF: Commissioner Heuchan.

23 COMMISSIONER HEUCHAN: Yes, my
24 understanding is yes, and that's probably more
25 of a question for Commissioner Cerio, but --

1 yes.

2 CHAIRMAN BERUFF: Thank you. Thank you,
3 Commissioner. Seeing no other questions, we
4 will -- oh, Commissioner Levesque.

5 COMMISSIONER LEVESQUE: Thank you, Mr.
6 Chairman, and Chair Heuchan, thank you for your
7 spirit of wanting to serve the Commission
8 with -- in your role as Chair of Style and
9 Drafting.

10 I do have a couple of questions because
11 there were specific things that were said on
12 the floor yesterday and I don't want them to be
13 perceived as the record unless we get some
14 clarification on some things.

15 And so there were four specific instances
16 yesterday that I can think of that I would love
17 to either hear your thinking on how Style and
18 Drafting would handle that, or I could pose
19 them as specific questions.

20 One was on Commissioner Gainey's proposal
21 related to death benefits for the survivors of
22 deceased military veterans and first
23 responders. And after that vote, Commissioner
24 Lee indicated that he hopes -- or before his
25 vote, that he hopes that Style and Drafting

1 would remove some of the prescriptive, you
2 know, statutory nature of the proposal and make
3 it kind of a higher-level aspirational goal
4 that it seems like the majority, you know,
5 would like to see intended.

6 Then there was an amendment by
7 Commissioner Lee onto Senator Gaetz' proposal
8 that we took an actual board vote on, and that
9 was adopted, but that clearly looks like it
10 would weigh down the base proposal, that many
11 of us would love to take off in order to not
12 harm the base proposal.

13 And then the last thing that comes to mind
14 was Commissioner Nunez' proposal to change the
15 date of when the Legislature meets. There were
16 two amendments that Commissioner Lee withdrew,
17 but he said he gives them to Style and Drafting
18 to consider.

19 And those were three very different
20 instances for me, the latter of which is taking
21 two substantive things, you know, one thing
22 that require the Legislature to send Bills to
23 the Governor at a time certain that we didn't
24 discuss, that we didn't have an opportunity to
25 weigh in on; the other, we did weigh in on and

1 a majority said should be in the proposal; and
2 then the first was more of a kind of how do we
3 reshape it to me to get the burrs off. And so
4 I'd love to understand your thinking on how
5 Style and Drafting would deal with those three
6 different scenarios.

7 CHAIRMAN BERUFF: Commissioner Heuchan.

8 COMMISSIONER HEUCHAN: Thank you,
9 Mr. Chairman. Thank you, Commissioner
10 Levesque.

11 Of course, you're right as usual about the
12 different scenarios, and they're all slightly
13 different, but for me, they all end up in the
14 same place, which is should, not can, but
15 should the Style and Drafting Committee do any
16 of those things. I mean, the issue of sending
17 along the amendments for consideration to Style
18 and Drafting, that's easy.

19 I mean, he -- President Lee could have
20 had -- he could not have -- even if he didn't
21 offer those amendments yesterday, of course the
22 Style and Drafting Committee could consider
23 those things, but I will tell you, it --
24 what -- and, again, it's -- what I'm trying to
25 explain and what I'm trying to tell you what's

1 on my heart, the more work that the Style and
2 Drafting gets, the harder it becomes to
3 represent the will of the body, okay, because
4 we're a subset of that group.

5 So in the scenario that you laid out with
6 President Gaetz' proposal, we all saw what the
7 vote was, we all saw that that could be
8 concerning, and even the sponsor of the
9 amendment said essentially that he wouldn't
10 want his -- his piece to weigh down the
11 underlying proposal.

12 So, again, it just -- it gets back to what
13 I said at the beginning. We will do whatever
14 you want, all right. We can -- in the -- so in
15 one sense, Commissioner Levesque, the Style and
16 Drafting Committee can provide relief to you
17 and the 18 people or however many people voted
18 against that amendment that was adopted to the
19 ethics package yesterday.

20 You would be glad if we did that. I'm
21 guessing. There are other circumstances that
22 we might entertain and do where you -- you're
23 not as big of a fan of those things. And so I
24 completely understand what you're asking and
25 what you're saying, and I -- and I share

1 those -- those things with you. All I can say
2 is that we will take the direction that the
3 Commission gives us, that the Chairman gives
4 us, and that the rules give us, and act
5 accordingly and certainly try to fit into the
6 stewardship of what I mentioned earlier.

7 And so, yeah, if we went off the
8 reservation, so to speak, these 11 people all
9 conspired together and we plotted a scheme to
10 come back and dupe this Commission, well, I can
11 tell you that's not going to end well for those
12 11 people. We would be, you know -- well, bad
13 things would happen to us.

14 So, you know, I just -- look, I don't --
15 we will do whatever -- whatever -- whatever --
16 what -- again, it just -- I know this is going
17 to sound like I'm trying to beat around the
18 bush. I'm not. The rules say what we can do.
19 We -- we -- we have these rules. So those
20 rules give authority to that Commission to do
21 certain things. That committee may do certain
22 things that are not embraced by this
23 Commission, and at that point, to Senator
24 Rouson -- to Commissioner Rouson's question, it
25 can be changed.

1 And so I view this whole thing as the
2 Commission's validating the work of the Style
3 and Drafting Committee, just like the voters
4 will validate the work of the Commission.

5 So -- but you --

6 CHAIRMAN BERUFF: I think that that
7 explanation is sufficient, and if anybody who
8 has more questions of Commissioner Heuchan --
9 not to close down this issue, but we've got
10 other things we need to get done -- he'll be
11 here and you can go to him one on one and
12 discuss them in person.

13 So with that said, thank you, Commissioner
14 Heuchan. I'm simply better informed than I was
15 before your explanation.

16 I would like to proceed and resume under
17 pending Amendment 611438 where we left off
18 yesterday. I already -- Proposal 97, Amendment
19 611438, and we were in -- we were in debate
20 with that one when we left off.

21 Commissioner Schifino, would you like to
22 speak? Okay. Yes, Commissioner Carlton,
23 please proceed.

24 COMMISSIONER CARLTON: Thank you, Mr.
25 Chairman.

1 I just thought I would regroup us where we
2 were yesterday. We were on the proposal, which
3 was Proposal 97 by Commissioner Keiser, and we
4 are on Amendment Bar Code 611438 by me, and I
5 thought that I would just reemphasize here,
6 take a second to reemphasize what my amendment
7 does.

8 Commissioner Keiser's underlying proposal
9 provides that future Constitutional Amendments,
10 in order for them to pass, would need to pass
11 by 60 percent of the total voters in the
12 election rather than the current language,
13 which is 60 percent of those voting within the
14 amendment.

15 So it is a much higher standard. We
16 already had discussions about how that means
17 the under-votes then essentially count as no's
18 and all of that, went back and forth.

19 And so we're on my amendment, which
20 provides that if -- it is an amendment to
21 Commissioner Keiser's proposal, and it provides
22 that if this particular amendment is to pass in
23 November, it must pass by the same percentage
24 that Commissioner Keiser is requiring all
25 future amendments to pass.

1 I proposed it out of -- I thought it was a
2 fairness issue, that if all future amendments
3 needed to pass by 60 percent of the total
4 votes, then this particular amendment should
5 pass by that.

6 We, you know, at that point lawyered up,
7 and it's great that the Attorney General is
8 here because, you know, she trumps all of you,
9 so -- but, you know -- and we had different
10 opinions on whether that is constitutional, is
11 it legal, is it not, you know, and Commissioner
12 Schifino, I have my ten years, too, so, you
13 know. It's -- I don't know if it's
14 constitutional or not. It's -- it's
15 unprecedented.

16 I don't think anybody in here can stand up
17 and say I guarantee you it's either
18 constitutional or unconstitutional. I don't
19 know. I'm just kind of expecting Style and
20 Drafting to fix it if there's something wrong.

21 So -- so with that being said, you know, I
22 would encourage you to vote for this amendment
23 because I think it -- it does make the
24 underlying proposal a little more fair. I've
25 already reiterated that I will not be voting

1 for the underlying proposal and will do that at
2 the appropriate time in debate. But with that,
3 I would ask for your vote on the amendment.

4 CHAIRMAN BERUFF: Commissioner Bondi is
5 recognized.

6 COMMISSIONER BONDI: I don't think I'm
7 going to be much help because as soon as we
8 heard this yesterday, we got my solicitor
9 general on it. I think -- where's Commissioner
10 Martinez? You spoke to someone as well, and
11 the best I can get right now -- you know, and,
12 for instance, you're going to be asking me a
13 lot of things today.

14 When we researched this gun Bill on mental
15 health -- this is off just a bit, but just to
16 show you -- we put weeks, hours and hours, 24
17 hours a day, to make sure it was
18 constitutional, taking the guns out of the
19 hands of those who are mentally ill. So
20 anything this body puts on this ballot, we have
21 to be sure it's constitutional.

22 And this is a quick -- and, again, I think
23 as you said, Commissioner Martinez, because I
24 think -- did you talk to Barry Richards? You
25 talked to someone. He kind of -- we're all

1 kind of doing this at first blush, and at first
2 blush, my solicitor general said, you know, "We
3 can't find anything that would prohibit the
4 language," but his next line is "We need more
5 time."

6 So, you know, I don't know, Chairman
7 Beruff, if you send it to Drafting and my --
8 they are working on it today, my whole SG's
9 office, I have a whole team of people working
10 on it, but, you know, right now, we can't find
11 anything, but that's just not to say these
12 things -- you know, this is pretty unique, and
13 these things take a while to research and
14 they've been researching it all evening,
15 they're looking at it, and whether we agree or
16 disagree on what we're going to do, let's just
17 make it constitutional.

18 CHAIRMAN BERUFF: Thank you, Commissioner
19 Bondi, for your comments personally. Till we
20 take the vote, I think we are working a lot on
21 something that may or may not need work.

22 Are we in debate or questions, I'm sorry,
23 Commissioner Carlton, where did we -- we're in
24 debate, okay. Just want to make sure. We're
25 still debating. Is there anyone else who would

1 like to debate Amendment 611438? Commissioner
2 Keiser is recognized.

3 COMMISSIONER KEISER: Well, I have an
4 interesting challenge. Commissioners, thank
5 you for the time and attention you have given
6 this particular proposal.

7 As it relates to the amendment, and I do
8 appreciate Commissioner Carlton's continued
9 interest -- the challenge I think we face is
10 that there have been other amendments before
11 this one, and whatever you may think of this
12 current amendment, there has been consistency
13 before in terms of whether or not that
14 amendment passes into the Constitution based on
15 the standard.

16 And I understand that she has an interest
17 in making this one different, and I do -- I am
18 concerned about whether or not it would pass
19 muster with the Constitution.

20 CHAIRMAN BERUFF: Any further --
21 Commissioner Cerio, please, you're recognized.

22 COMMISSIONER CERIO: Thank you, Mr. Chair.

23 Basically, the Constitution currently
24 requires 60 percent to amend the Constitution,
25 and we're trying to find a creative way under

1 probably very good circumstances to get around
2 that, and I think that is really bad precedent.

3 There's nothing that would prohibit -- we
4 do it on this because it pertains to votes of
5 the Constitution, but there's nothing that
6 would prohibit us from doing this on other
7 measures, the measure I filed, maybe the ethics
8 Bill or the ethics proposal of Senator Gaetz,
9 maybe Commissioner Plymale's closing the voting
10 loophole. It's just not a good idea.

11 I agree with -- with the Attorney General
12 and her solicitor general, it needs more time,
13 but just from my hip, I can see -- I could see
14 arguments on either side, and it would probably
15 depend upon the draw of the Judge and the
16 Appellate Courts would ultimately decide. I
17 just think it is a bad road to go down.

18 CHAIRMAN BERUFF: Any further debate?
19 Commissioner Stemberger is recognized.

20 COMMISSIONER STEMBERGER: So I would just
21 like to point out -- well, first of all, my
22 name was invoked yesterday by Senator
23 Carlton -- Commissioner Carlton, but I am not
24 her counsel, so this is not any breach of
25 attorney/client privilege. But I would like to

1 point out that when the Legislature passed the
2 Joint Resolution to raise the standard from 50
3 to 60, that that also required just a
4 50 percent vote, didn't require a 60 percent
5 vote.

6 CHAIRMAN BERUFF: Further debate on the
7 amendment?

8 Seeing none, we will now vote on the
9 amendment by voice vote.

10 All those in favor, signify by saying yea.

11 (Chorus of yea's.)

12 CHAIRMAN BERUFF: All those against,
13 signify by saying nay.

14 (Chorus of nay's.)

15 CHAIRMAN BERUFF: I don't know. My call,
16 I think the nay's have it, but I'm happy to --
17 okay.

18 So now we go to amendment -- we go back to
19 Amendment 435 -- oh, Commissioner Carlton is
20 recognized.

21 COMMISSIONER CARLTON: Mr. Chairman, I
22 will withdraw all of those amendments.

23 CHAIRMAN BERUFF: Thank you so much.

24 So now we will debate 97. Commissioner
25 Keiser is recognized.

1 COMMISSIONER KEISER: Fellow
2 Commissioners, I understand that this is a very
3 difficult decision.

4 CHAIRMAN BERUFF: Commissioner Keiser, I
5 don't mean to interrupt you, but --

6 COMMISSIONER KEISER: Yes.

7 CHAIRMAN BERUFF: -- are you closing or
8 are you debating? Because you'll get a chance
9 to close on your -- on Proposal 97. Or do you
10 want to debate?

11 COMMISSIONER KEISER: We're in debate.

12 CHAIRMAN BERUFF: We're in debate. Okay.

13 COMMISSIONER KEISER: Yes.

14 CHAIRMAN BERUFF: I just want to make
15 sure.

16 COMMISSIONER KEISER: And I'd like to --
17 yes, I'm in debate.

18 CHAIRMAN BERUFF: Thank you very much.

19 COMMISSIONER KEISER: And because the hour
20 was late, if it is appropriate, I would like to
21 just give a quick, very brief overview to pick
22 up where we left off.

23 Proposal 97, 22 years ago, as we discussed
24 yesterday, a taxing amendment, and several of
25 you have raised that in terms of is this really

1 what the public wanted. Twenty-two years ago,
2 the public's voices through citizen's petition
3 said if you're going to tax us, we want all
4 those voting in this election to make this
5 determination by two-thirds.

6 The inconsistency I pointed out yesterday
7 had to do with those who are voting in the
8 election. I understand that for some of us, it
9 is very difficult to consider that by skipping
10 something, it is a no vote, but help me think
11 about this a little bit more, Commissioners.

12 If we don't answer, if we abstain from
13 voting, another voter ultimately is making that
14 decision for me. And I said to you yesterday,
15 I've gone to vote, I've read, I consider myself
16 an informed voter, I make it a point to be an
17 informed voter and a voter that votes
18 consistently.

19 I ask you to consider that this proposal
20 really is about hearing more of citizens'
21 voices, letting them weigh in on decisions, and
22 backing off special interests through -- that
23 are outside the state very often and very
24 well-financed. This is just one more stop-gap
25 measure to protect the public's voice, to

1 protect the public's will.

2 Those are some of the issues raised
3 yesterday, and, please, I would continue to
4 entertain questions, of course.

5 CHAIRMAN BERUFF: Debate? Anyone want to
6 be recognized on debate? Commissioner Donalds
7 is recognized.

8 COMMISSIONER DONALDS: Thank you,
9 Mr. Chair. Thank you, Commissioner Keiser.

10 I certainly appreciate the sentiment of
11 this proposal in trying to protect our
12 Constitution, and I like that you framed the
13 debate around protecting the Constitution,
14 because we've all seen abuses of the ease in
15 which some special interests, others, can make
16 changes to the Florida Constitution, and we
17 don't want to see that continue.

18 And I think that we all applauded the
19 change that was made from going from 50 percent
20 to the highest in the nation, as I understand
21 it, to 60 percent. And I could certainly
22 contemplate even raising that even higher,
23 perhaps to a two-thirds of those voting on the
24 measure.

25 However, I do have an issue with the way

1 that this proposal would work in the sense
2 that -- to the point that you just made, you
3 stated that if I don't vote, then someone else
4 is making that decision for me, those who do
5 vote on the measure. However, that would be as
6 a result of a choice that I made not to vote.

7 On the other hand, under this proposal, if
8 I do vote, that vote can be watered down by
9 someone else who chooses not to vote, and that
10 is not my choice. So in that case, my vote is
11 in some ways disenfranchised by a choice that
12 someone else makes not to vote.

13 So I would say that my vote is affected
14 negatively more so under the scenario that
15 someone else's choice disenfranchises my vote
16 versus if I choose not to vote and I know that
17 that makes it a no vote under this proposal,
18 that's a choice that I would be making.

19 As a voter, and as someone who certainly
20 follows politics and campaigns, I know, being
21 very familiar with School Board races, that far
22 down the ballot, you can have a 20 to
23 30 percent under-vote, depending on the
24 election. Constitutional amendments below
25 School Board I would expect would be even

1 higher than that.

2 So I don't want to make it completely
3 impossible to change the Constitution. I think
4 it's reasonable that there be a very high
5 threshold, but I don't agree with how this
6 proposal is doing it by counting the
7 under-votes as no votes, simply because the
8 reality, even though we would desire everyone
9 to be engaged in constitutional amendments and
10 proposals, the reality is that people go to the
11 vote -- to the ballot for a specific reason,
12 whether it is for Governor or for School Board
13 or maybe for constitutional amendments, and
14 those who choose to vote on those, those votes
15 should be counted in full. And that is why,
16 I'm sorry, I cannot support the proposal as
17 written.

18 CHAIRMAN BERUFF: Commissioner Schifino is
19 recognized.

20 COMMISSIONER SCHIFINO: Chair Beruff, the
21 -- and thank you for those comments,
22 Commissioner Donalds. I couldn't agree more
23 with everything you have just said. I stand in
24 opposition to this proposal.

25 When I saw the amendment that had been

1 filed, the one that had said it raised it, I
2 think, to two-thirds, I was looking forward to
3 discussing that amendment. I think that was
4 filed last -- well, it was filed last week
5 sometime, but that was withdrawn. And so for
6 many reasons, I am opposing this proposal.

7 Number one, let me go through them as
8 briefly as I can. Number one, we all travel
9 the state. I think -- I don't know how many
10 meetings we had. I never once heard -- in all
11 the ones I went to, and I made most of them, I
12 never heard one person raise this issue. The
13 only people that I heard from on this issue,
14 candidly, were the few phone calls I received
15 from paid lobbyists. That's it.

16 I asked a question, and that was what is
17 the problem we are trying to fix? There is no
18 problem we're trying to fix with this
19 particular proposal, not the two-thirds when I
20 mentioned before.

21 Next, this proposal as drafted is clearly
22 confusing. You're not going to be able to fix
23 this in Style and Drafting. How many times did
24 people have to explain what it was that we were
25 actually talking about? Now, I get it, we all

1 get it, an abstention is a no vote. You think
2 the public is going to follow and understand
3 what we're trying -- I mean, I would suggest to
4 Style and Drafting you're going to have to put
5 a big red stamp on this one that said "voter
6 beware, take special caution, get counsel and
7 advice."

8 And I don't mean this disrespectfully, I
9 don't, but it concerns the heck out of me. I
10 cannot see -- I can't even fathom how this is
11 going to draw more voters to vote on proposals.

12 I thought about this proposal and I said,
13 okay, let's imagine for a moment that this was
14 the law today, okay, and let's look ahead to
15 this November election. So for hypothetical,
16 it's in place today. You've got a Senate race
17 and a Gubernatorial race coming up in November.
18 You're going to have a lot of voters who want
19 to be heard on who their Senator is and who
20 their Governor is. I'll bet you have eight
21 million of the 12 million people will come out
22 and vote.

23 Now, if you look at what we're doing,
24 there's already four amendments on the ballot
25 that we're getting. Then there's going to be

1 ours. I don't know how many proposals there
2 will be on this -- you know, on this particular
3 ballot. We've already voted yes on nine. So
4 let's say there's 10 to 15, all right. How
5 many of those eight million are going to --
6 they want to pick their next Governor, they
7 want to pick their next Senator.

8 How many are going to go to the manual
9 that's going to be attached and say, "Okay, now
10 I need to navigate through this. Thanks, but
11 no thanks."

12 So what happens mathematically is those
13 three million people of the eight million that
14 don't vote on those proposals, you start with
15 three million no votes. Candidly, I think it
16 is unconscionable.

17 So, you know, respectfully -- and,
18 Commissioner Keiser, we've worked very well
19 together, when I sat down and spoke to you
20 about your amendment, you know how I felt about
21 it and was certainly willing to have a dialogue
22 about that, but when that was pulled and we
23 reverted back to the initial proposal, I think
24 you've known even since committee how I've felt
25 about this proposal. So I implore you all to

1 vote no on Proposal 97.

2 CHAIRMAN BERUFF: Commissioner
3 Thurlow-Lippisch is recognized.

4 COMMISSIONER THURLOW-LIPPISCH: Good
5 morning.

6 Commissioner Keiser, I am a big fan, and I
7 definitely support many of the things you have
8 proposed, but I would ask you to consider
9 withdrawing this because I just don't think it
10 is -- in order for us to try and make it harder
11 for the public at this point, I think it would
12 reflect poorly on everything else.

13 If this is debated in an area where all
14 these other things aren't around it, I think
15 that's fine. I just think here it may be
16 confusing to the public.

17 I was an eighth-grade teacher. I look at
18 everything as an eighth-grade teacher. And at
19 the end of the day, we're all still kind of
20 eighth graders, especially when we're looking
21 at something that we don't know that -- that
22 much about. And I think that the confusion
23 with this may lead into other things.

24 But please know that I have the utmost
25 respect for you and all that you do, and I will

1 be voting for other proposals that have been
2 your wonderful ideas. Thank you.

3 CHAIRMAN BERUFF: Commissioner Smith is
4 recognized.

5 COMMISSIONER SMITH: Thank you, Mr. Chair.

6 Of the 37 proposals that we came up here
7 to talk about this week, I can tell you exactly
8 what I felt with 36 of them on my way up here,
9 I knew exactly where I stood on them before the
10 debate even happened.

11 This is the only one where I find myself
12 going down a philosophical rabbit hole. This
13 is an interesting concept. Our Constitution is
14 the bedrock of our government, and if you're
15 going to put something in the Constitution, you
16 should want to put it there.

17 So what this amendment basically does
18 philosophically, and I am still trying to work
19 through it, is if you care enough to put it in
20 there, vote for it. But if you don't vote on
21 it, honestly, it's not that important to you to
22 go into the Constitution. That's
23 philosophically where we are now, and that's, I
24 think, the philosophical argument that the
25 sponsor is making, that if you want this in the

1 Constitution, vote yes; if you skip, whether by
2 choice or not understanding, obviously it's not
3 that important for you to put it in the
4 Constitution, so it should count as a no vote.

5 When we come back in August -- in April --
6 please, not August. When we come back in
7 April, it takes 22 votes, it's going to take us
8 22 votes to put something on the ballot. Let's
9 say we come back in April. Bondi, Carlton,
10 Cerio, Coxe, Diaz, Donalds, and Gaetz don't
11 make it back here. Those are going to count as
12 no votes because we need 22.

13 So if those -- that first row don't show
14 up and don't come and vote, that's going to
15 count as a no vote. So basically we have that
16 rule in place for our own voting in April. We
17 have a hard 22 count. And if someone abstains,
18 that's going to be a no vote. We are under
19 that right now.

20 I think the public can understand. I
21 mean, it's a tough -- it's a tough question and
22 it's maybe a question for people to hear.
23 Maybe it is a question that people need to
24 discuss to say -- and I think it is simple to
25 explain, hey, if you skip it, that's a no vote.

1 That's what it says. If you skip it, it's a no
2 vote. I think my constituents can understand
3 that, that they're saying if you skip it, it's
4 a no vote.

5 I just rise to make those points because
6 I'm still -- my finger is going to be dancing
7 yes or no on this, but, philosophically, this
8 is a tough one, this is one -- this isn't about
9 -- this isn't like all the other stuff we're
10 doing, but, philosophically, do you want to go
11 down that -- do you want to say that if you
12 don't vote, if you don't voice your concern,
13 obviously it is not that important for you, so
14 we shouldn't put it in our Constitution? And
15 that's what we're going to be voting on in a
16 minute. Thank you.

17 CHAIRMAN BERUFF: Commissioner Solari is
18 recognized.

19 COMMISSIONER SOLARI: Thank you,
20 Mr. Chair.

21 Commissioner Smith, I have to disagree
22 with almost everything you said. I mean, I
23 understand that we have to --

24 A VOICE: With all due respect.

25 COMMISSIONER SOLARI: I will work on my

1 performance, Commissioner.

2 So we are here as representatives of
3 people of the State of Florida. To me, that's
4 similar to when I'm a County Commissioner. I'm
5 a representative of the 146,000 people in
6 Indian River County. I have an obligation,
7 which I chose, chose, to vote for that day.
8 And that's because this is a representative of
9 government. I am the representative of the
10 people.

11 As a citizen going into the ballot box, I
12 fully believe I have a right to let my other
13 fellow citizens be my representative if it's an
14 item which I don't understand or know enough
15 about. There will be a lot of times as a Board
16 of County Commissioner where the issue just
17 doesn't matter to me and I'd like to not vote
18 on it, but that's not my job. At the end of
19 the day, I have to vote on it.

20 But as a citizen going into the ballot
21 box, if I'm comfortable with having
22 conversations with my fellow citizens, if it is
23 something that I'm willing to admit I just
24 don't know about, then I shouldn't have the
25 government telling me that it's a no vote

1 because I wanted to put my vote in the hands of
2 my fellow citizens.

3 Thank you, Mr. Chairman.

4 CHAIRMAN BERUFF: Commissioner Carlton is
5 recognized.

6 COMMISSIONER CARLTON: Thank you,
7 Mr. Chairman.

8 I'm just going to make a few points. I
9 would encourage you to vote against the
10 proposal, and that is with all due respect to
11 my very good friend, Belinda Keiser. We have
12 been friends -- I have probably been friends
13 with her longer than anybody on this floor.
14 When I was a freshman legislator in the House,
15 she befriended me and taught me probably
16 everything I know about education issues, not
17 only higher ed, but K through 12, and I owe her
18 a debt of gratitude for that and we have been
19 friends for a long time. So this is -- she
20 knows this. We have talked about this. We
21 are -- we're good.

22 So I appreciate what she has done for me
23 personally in my career, but on this one, we
24 are just -- we will just choose to disagree.
25 And I'm just going to make a couple of points.

1 I am going to follow up on something that
2 Commissioner Smith said because I am going to
3 disagree with him a little bit about the way
4 our rules operate. He was correct on the final
5 22 passage, but he is incorrect on how
6 under-votes are counted in this body.

7 If you look at 5.2, Rule 5.2, it is the
8 same rule as the Senate used to have and the
9 House used to have. I don't know if they still
10 have it anymore, but back in the day, they had
11 this rule that if you were counted in the
12 quorum but not present for the vote, your vote
13 doesn't count. So that way, in the Senate, if
14 you happen to be off the floor, in the back, in
15 the restroom, whatever, and there's a vote
16 going on and you didn't vote, your vote doesn't
17 count. It's not an automatic no vote.

18 This proposal, if you take that to its
19 extreme, would say those people that were
20 present for the quorum but not for the vote,
21 since they were in the back getting a drink or
22 a cup of coffee, we're just going to count them
23 as no's.

24 So what does that mean? Well, that means
25 yesterday we have a little bit different vote

1 count on one amendment. On the amendment by
2 Senator -- by Commissioner Lee, there was a
3 vote for 17 to 15 that passed. Two people were
4 off the floor. Guess what? Let's just count
5 them as no's because that doesn't change
6 anything. Well, yeah, it does, it changes the
7 whole outcome of the vote because now the vote
8 becomes 17-17 and the measure fails.

9 So you can't count votes that aren't
10 intentionally there. We have it in our own
11 rules, and you know what, let's just lawyer up
12 here. I'm going to give you your next
13 plaintiff. I showed up to the polls, I voted,
14 I did my due diligence, but on this one thing,
15 I decided not to vote because I didn't know
16 enough about it. So I left that to, as
17 Commissioner Solari says, my fellow citizens
18 and I go home.

19 Well, what if that amendment or that
20 proposal passes or fails but I didn't vote and
21 it is a pretty close vote. Well -- and now I
22 find out that my -- my lack of voting was
23 actually counted.

24 Now, some of us remember Florida and our
25 difficulty in counting votes a few years ago,

1 but have we ever decided to count votes that
2 really were not -- they were not there? I
3 mean, so now you're going to say we're going to
4 count votes that were not taken just because
5 they skipped it. I mean, there's your next
6 plaintiff. All right. There's your next
7 plaintiff.

8 So whether it is constitutional or not --
9 I'm not even sure the underlying proposal is
10 constitutional, because we could be the only
11 state in the entire country that has decided to
12 count votes that aren't really there, and that,
13 to me, might need to be the area of research if
14 this passes on to Style and Drafting.

15 So -- you know, I think I -- I think I'll
16 just leave it there. I think you know that
17 I'm -- you know, I'm -- I know that the genuine
18 intention here is to bring more people out, but
19 I just think that this is the wrong way to do
20 it. There's got to be a better way to
21 encourage voters to come to the polls and
22 research issues rather than saying an
23 under-vote is a no. There's got to be a better
24 way.

25 So I would encourage us in the Legislature

1 and interest groups out there to look for a
2 better way to bring out voters to the polls,
3 and I would encourage you to vote against the
4 proposal.

5 CHAIRMAN KARLINSKY: Further debate?
6 Commissioner Heuchan, you're recognized.

7 COMMISSIONER HEUCHAN: Thank you, Mr.
8 Chairman.

9 The intent by Commissioner Keiser is -- is
10 a noble one for sure. I will tell you in the
11 15 public hearings that we heard, I went to 10
12 or 11 of them, and it was virtually unanimous
13 from -- for life groups that were there to talk
14 about their issues, or the ACLU to talk about
15 their issues, or the League of Women Voters to
16 talk about their issues, they all said the same
17 thing, which was to be careful with what you
18 do.

19 I think they were talking about us, not --
20 not them. But you could -- and I'll tell you,
21 and I'm going to get to my point, which is a
22 little different point that has been heard and
23 it's a point of concern that I have, but you
24 could easily view this as a be-careful vote.
25 As Commissioner Keiser represented, it is

1 essentially identical to the threshold placed
2 on things that are taxing. So, for me, it is a
3 little simpler on this notion of, well, if it's
4 good enough for that, it could be good enough
5 for these.

6 I did vote for this proposal in ethics and
7 elections, and perhaps maybe even -- I don't
8 know how many times I voted for it, but I was
9 one of the people fighting for it for the
10 reasons that I've said, because I do think we
11 should be careful. Having said that, I also
12 encouraged -- I liked the amendment that was
13 withdrawn.

14 My concern is that it's going to be hard,
15 I think, to explain this in a way that people
16 can understand. So I wish the underly- -- if
17 we could have a policy debate about whether it
18 should be harder or not, that is a much, much,
19 easier discussion than the one we're having
20 now. So --

21 CHAIRMAN KARLINSKY: Chair Beruff?

22 CHAIRMAN BERUFF: I've listened to the
23 comments from people who have been in this
24 arena much longer than I and certainly know
25 more about the process than I do.

1 I look at it as a simple home builder from
2 Florida, okay. I think we've been misleading
3 the public since 2006. I believe the majority
4 of the public voted 2.6 million 969 votes to
5 amend the Constitution to require a 60 percent
6 majority.

7 I don't see where it said, oh, 60 percent
8 of the majority of the people that show up on
9 that item. That's why I am supportive of
10 Commissioner Keiser's proposal, because I think
11 we've been misleading the public.

12 Let me share with you a story on my second
13 or third public board that I had the pleasure
14 of serving at. They put out a pamphlet to the
15 public, and that pamphlet said that the
16 staffing level in 2009 was the same as the
17 staffing level in 1996. As a business person,
18 I was incredibly impressed by that data. I'm
19 going how do you grow an agency for 13 years
20 and keep your staffing level the same?

21 I started asking questions at a
22 presentation about the economics of that
23 agency. Towards the end, the CFO said let's
24 call him, says, "And we outsource \$80 million."
25 So I raised my hand at the end of the

1 presentation, I said, "What were we outsourcing
2 in 1996?" The answer will go with me until I
3 go in the grave or get Alzheimer's. *De*
4 *minimis*. That started my turning rocks over.

5 The fact of the matter is, we had 218
6 off-the-books FTEs, which everyone in this room
7 knows what that means. So we were misleading
8 the public by publishing a pamphlet that
9 bragged about something that just wasn't
10 factually correct.

11 I think what was passed in 2006, the
12 intent was for all voters -- you ask -- you put
13 a hundred voters in this room, except for us
14 that are -- including myself before I started
15 becoming more enlightened on this -- thought
16 that 60 percent of the people that show up is
17 the only way to change the Constitution. Never
18 did it say 60 percent of the people that show
19 up on that item.

20 The other thing that I take exception to
21 is a lot of the discussion this morning has
22 been affecting -- it doesn't affect anything
23 but Constitutional Amendments. It doesn't
24 affect elections, doesn't affect School Board
25 elections, it doesn't affect any of that stuff.

1 That's still simple. He who shows up, votes.
2 If you don't vote on that item, it doesn't
3 count as a no vote. It only counts on
4 Constitutional Amendments. If people don't do
5 their homework and show up to vote on a
6 Constitutional Amendment and get the 60 percent
7 majority, we probably shouldn't be passing it.

8 So I appreciate the time. Thank you.

9 CHAIRMAN KARLINSKY: Further debate?
10 Commissioner Sprowls.

11 COMMISSIONER SPROWLS: Thank you,
12 Mr. Chairman. Thank you -- thank you, members.
13 I think that a couple things are worth
14 considering here.

15 Yesterday I wasn't sure, someone had
16 mentioned, you know, how do other states do
17 this, which, you know, we talk about that a lot
18 in the Legislature, what other states do, and,
19 frankly, most of the time, we don't necessarily
20 care what other states do, but it is
21 instructive at times to see how do other states
22 handle it and how does that compare to how we
23 do it. And I think it's important in this
24 particular conversation for several reasons,
25 right.

1 So looking through it last night, and we
2 go through all 50 states, only 18 of them --
3 and, practically speaking, probably closer to
4 14 because of how hard the process is, but
5 we'll be conservative and say 18 -- only 18
6 states have a citizen process like we do. I
7 think we're pretty fond of our process here in
8 Florida and none of us want to get rid of it,
9 but only 18 -- 17 other states in the United
10 States have a citizen process.

11 The rest of them amend their Constitution
12 through the Legislature, to the ballot, or
13 through a constitutional convention, which as
14 you can imagine, like this is a rare -- a rare
15 feat. And in many of those Legislatures,
16 it's-- as you know, it's a two-thirds vote,
17 just like it is in our Legislature, a
18 two-thirds vote of the House, two-thirds vote
19 of the Senate, in order to send that ballot
20 measure to the ballot.

21 And it was also brought up yesterday,
22 well, are we the highest in the country as far
23 as 60 percent. And there are other states that
24 have, I think, a 60 percent threshold, but it's
25 also not a fair comparison, right, because in

1 our process, you have a citizen lane to get to
2 the ballot. In these other states, you don't
3 have that lane, you only have the Legislature.
4 Those of you who -- and everyone in this room
5 has either, you know, served in the Legislature
6 or been around the Legislature or been engaged
7 in the process for many years, and you'll know
8 that getting two-thirds of the Legislature to
9 agree on anything is a difficult feat, as it is
10 to get the voters to agree to two-thirds on
11 anything.

12 New Hampshire has a two-thirds majority at
13 the ballot, at the ballot, a two-thirds
14 majority.

15 I agree with some of the comments I think
16 that were said about the underlying amendment,
17 Commissioner Keiser. As you know, I was a fan
18 of the underlying amendment, which was
19 two-thirds. I think there's ups and downs
20 sides to it, but I think it is something that
21 we -- we know, we understand, our people
22 understand we are used to two-thirds, it is
23 part of our legislative process.

24 In New Mexico, they have a -- they have no
25 citizen initiative. It is a, you know, a

1 majority vote, unless it's certain sections of
2 the Constitution, in which case it's a
3 75 percent vote of the electorate. California
4 is 55 percent. Illinois is at 60 percent or
5 50 percent, depending on the votes of the
6 highest -- over 50 percent depending on what
7 the highest vote count of that election is.

8 So if most people count their votes for
9 Governor, they would use that number. So we
10 see there's even different formulas that are
11 used depending on which state that you are in.
12 Minnesota uses 60 percent on Constitutional
13 Amendments.

14 My favorite, frankly, is Nevada, right.
15 So Nevada says -- I think it's -- it might be a
16 simple majority, but it's over two consecutive
17 election cycles. Well, why does that matter?
18 We all talked about special interests and their
19 stranglehold on some of these Constitutional
20 Amendments, and there have been many
21 Constitutional Amendments -- the net ban would
22 be a good example -- that have come to the
23 ballot because citizens throughout our state
24 felt like there needed to be a movement in
25 order to bring something to the ballot,

1 something wasn't getting done. That's the
2 citizen initiative process. But if we are
3 being totally candid, and I think we all are,
4 the vast majority of these amendments come from
5 special interest groups.

6 Someone told me that it costs \$5 million
7 to vendors to help get citizen petitions done
8 in the State of Florida to bring things to the
9 ballot, like they did with medical marijuana
10 and others. And throughout that process, how
11 many -- how many citizens around the state have
12 the ability to raise or cut a check for \$5
13 million in order to ensure that their ballot
14 language gets to appear next to a special
15 interest groups? Not very many.

16 But there are a lot of special interest
17 groups in state and there are a lot of special
18 interest groups out of state who want to come
19 into our state with lots of money to cut a
20 check to change our Constitution, and I think
21 that that should give us pause.

22 Just for some other context, I was curious
23 since 2006, how many of the amendments that
24 were passed by the voters would have been
25 passed under this new formula if this were to

1 pass. And it would be 10 of 22. So the notion
2 that, you know, simply it would be impossible
3 is not fair, right. In 2016, all of the ones
4 that passed at the ballot, every single one,
5 would have also passed under this formula. So
6 I think that is worth considering.

7 But I am a pragmatist and I can read the
8 room and I think I can still count, and you
9 know, if I can read the room correctly, I'm not
10 sure that there's the votes for this proposal,
11 and I think that while, you know, certainly
12 Commissioner Keiser's goal here, I share and I
13 believe is pure, which is to say, look, we
14 should be voting, we should be voting, these
15 are important, it's our Constitution. And,
16 also -- and it shouldn't be easy is a valuable
17 one.

18 I also understand where Commissioner
19 Carlton is coming from and I can understand
20 where a voter would take a look at this and
21 say, well, this sounds like, this feels like
22 gamesmanship to me, you know, are you gaming
23 me, are you gaming the system? Surely that is
24 not the intent, and we get to sit in this room
25 and we know that that's not the intent. But

1 outside of this room, I think that that's a
2 real consideration that we have to value.

3 So my suggestion would be -- would be
4 that -- necessarily this is Commissioner
5 Keiser's proposal and she'll make the best
6 decision, but that we temporarily postpone
7 this. I think that will give us chances to do
8 one of two things:

9 Either realize that there's no way for us
10 to come in the short period of time that we
11 have here on this proposal to a consensus that
12 we can get consensus on, or that there is
13 something that we can build consensus on,
14 whether it's that original amendment or
15 something they do in Nevada. But I don't
16 believe that we're going to be able to reach
17 that consensus on this proposal in the next
18 several minutes, and that would be my
19 suggestion.

20 Thank you, Mr. Chair.

21 CHAIRMAN BERUFF: Thank you.

22 Is there further debate? Would anybody
23 like to speak? Commissioner Joyner is
24 recognized.

25 COMMISSIONER JOYNER: Thank you, Mr.

1 Chairman.

2 It has been said that special interests
3 have a stranglehold on constitutional
4 initiatives and that this only affects
5 constitutional initiatives. Well, Florida,
6 constitutional initiatives allows average --
7 all Florida citizens to come out and vote if
8 they so desire. This is the opportunity that
9 the public has to make their voices heard on
10 whether they want to make changes to their
11 Constitution. It is not a minor thing, it is a
12 big thing.

13 Yes, it does cost about \$5 million to
14 fund -- to get the petitions out, but I'll tell
15 you it works for the little -- for the people
16 who are not special interest in the sense of
17 money, because that coalition that raised
18 enough money to get enough signatures to put
19 the felons' restoration on the ballot for
20 November is the reason why the process does
21 work.

22 We are still looking for utopia here. We
23 want the perfect everything. But out of all of
24 this might be one kernel of good in the fact
25 that we pa- -- they were able to get those

1 signatures, they were able to raise the
2 dollars, they were able to mobilize the people.
3 Grassroots people made that happen.

4 We don't want anything that would get in
5 the way of a person saying, well, heck, they're
6 trying to make it more difficult for us to be
7 able to change it. What is this? I don't
8 understand it. I can hear it now. I got some
9 calls last night. What are you all trying to
10 do up there? Why is there any attempt to try
11 to make it more difficult? Even though the
12 purpose of the sponsor may be noble and just
13 and good, what is the end result for the people
14 who are listening and want to participate?

15 Somebody asked me, well, why should I --
16 my vote be a no if I decide that I don't want
17 to vote on a particular issue, or I am going
18 there to vote for X, Y, and Z. Some people
19 just pick the ones they want. I know the
20 million or so people who voted for felons, who
21 signed those petitions for felons' restoration,
22 they're going to turn out.

23 So, you know, it's mixed, but the ultimate
24 end of this is don't make it more difficult for
25 the public to exercise their right to change

1 the Constitution by changing the rules at this
2 stage of the game.

3 We'll have to fight special interests like
4 we do every day, you know. We are looking for
5 perfection, and that's good, but it's not going
6 to happen overnight. This appears to people
7 that we are trying to take away something from
8 them, that's the perception, and to average
9 folks, perception is reality.

10 So I -- I can't support this. I think it
11 is confusing. I think it would be confusing to
12 the public. I think that the balance summary
13 will be confusing. And I think that at the end
14 of the day, the people who want to do what's
15 right will be so confused they won't know what
16 to do about this particular initiative.

17 CHAIRMAN BERUFF: Commissioner Keiser is
18 recognized. Commissioner Keiser.

19 COMMISSIONER KEISER: Commissioners, I
20 truly appreciate the conversation. I believe
21 that for each and every one of us, when we were
22 given this honorable and very incredible
23 responsibility to serve on the CRC, I think we
24 have struggled with what truly belongs in the
25 Constitution.

1 I think this is a conversation that needs
2 to continue. And whether you believe Proposal
3 97 is the way to achieve that goal, I truly
4 have heard arguments in favor and against, but
5 I do look to other states, not because they
6 have all the answers, but because they've
7 wrestled with the importance of the
8 Constitution, our foundational document.

9 Hearing what I've heard, I'd like to make
10 a motion to temporarily postpone.

11 CHAIRMAN BERUFF: Without objection, we
12 will go on to the next item, Proposal No. 54.
13 That is temporarily postponed also. We will go
14 on to 65.

15 Commissioner Carlton is recognized to
16 introduce her proposal.

17 COMMISSIONER CARLTON: Thank you. Thank
18 you, Mr. Chairman and Commissioners.

19 I am very proud to present for your
20 consideration today Proposal 65, which would
21 add vaping and e-cigarettes into the 2002
22 Constitutional Amendment which bans smoking in
23 the workplace.

24 I thought I would begin my explanation by
25 letting you know what this proposal is not

1 about, and -- and that's important here. So
2 this proposal is not about whether a person
3 should vape or not. That is a personal choice
4 that the person makes. Nothing in this
5 proposal would prevent an adult from going into
6 a store and purchasing a vape or an e-cigarette
7 and making that choice on their own. They are
8 free to do that under the laws of this state.

9 They can vape an e-cigarette in their
10 homes, in their backyards, in their cars. So
11 nothing in this proposal is about whether a
12 person should vape or not.

13 In addition, nothing in this proposal is
14 about why a person vapes or not. And I think
15 that's an important point for us to remember,
16 because during the public hearings, although we
17 heard many voices that were in favor of 65, we
18 also heard a few voices that said, well, you
19 know, I vape because it helps me not smoke
20 traditional cigarettes, or I vape because I
21 have PTSD and it helps relax me, and, you know,
22 the reasons.

23 There were a few reasons mentioned, and to
24 those reasons, I say God bless. You know,
25 there is -- there is nothing in here that is a

1 judgment call on why a person vapes. That is
2 their choice, and there is nothing here taking
3 that choice away from a person. I support the
4 people in the state that have made the choice
5 to vape. That is their choice. I am not
6 questioning whether or why they vape.

7 So, then, what is this about? This is
8 about where you vape. This is about where you
9 vape, where you smoke that e-cigarette or that
10 vape, because, you know what, now you're in my
11 territory. You're not in your private home.
12 And I will just recount the situations where I
13 have encountered these, and I am sure that
14 those of you on the floor that have done the
15 same thing can recount other situations.

16 I told Commissioner Lee what sort of
17 started me down this path several years ago was
18 being in the Brandon Mall, walking through the
19 mall with a mom in front of me, pregnant mom,
20 with about a three or four-year-old holding her
21 hand, and as she walks by, she was walking
22 behind somebody who was vaping. And the
23 little -- the little child was like -- and I
24 was walking right next to them, and the little
25 child was like, "Mommy, why are those people

1 smoking in the mall?" And the mom was like, "I
2 don't know," you know, and I moved on and we
3 separated, so I don't really know what the
4 conversation led to.

5 A few -- a few years ago, I was sitting in
6 a gym. It's -- it's a gym, which is a
7 workplace, and my daughter at the time was
8 involved in fairly high-level gymnastics. And
9 I was sitting in the gym, and all of you who
10 have been parents or have nieces or nephews
11 know the drill, you go into the gym and you're
12 behind the glass mirror, you know, so that you
13 can watch your kids, but your kids don't know
14 you're watching them and, you know, it is all
15 good.

16 And as I was sitting there watching my
17 daughter in a gym, doing gymnastics, which is a
18 sport, an athletic thing, I had to sit behind
19 somebody who was vaping. And it just
20 infuriated me that I am sitting in a gym, in a
21 health facility, enclosed workspace, and
22 watching activities of children and there's
23 somebody in front of me vaping. And I could go
24 on and on, and I won't, but, you know,
25 restaurants, I have sat in restaurants next to

1 somebody who is vaping and smoking an
2 e-cigarette. So this is not whether or why a
3 person vapes. It's about where.

4 And so the next point that I would like to
5 make -- and I'm going to pick up on some points
6 that were made yesterday because I think it's
7 really important on this floor to listen to
8 what is important to people. And I get the
9 impression that it is very important to people
10 of, well, okay, that's all well and good, Lisa,
11 but why does this need to be in the
12 Constitution, you know, why does this need to
13 be in the Constitution? And I think it's very
14 important to point out why this needs to be in
15 the Constitution because that is what we are
16 here about.

17 You know, Florida has a very long history
18 with the Clean Indoor Air Act, going back to
19 1985 by statute. We had the enactment of the
20 First Clean Indoor Air Act, one of the first in
21 the country, by the way. That was enacted in
22 1985.

23 Seventeen years later -- so that's a
24 statute. Seventeen years later in 2002, which
25 was 15 years ago, Floridians recognized the

1 public health hazards of smoking and the
2 serious negative effects of second-hand smoke
3 and they saw those dangers of being exposed to
4 that as they went about their daily lives,
5 eating at restaurants.

6 You know, I started practicing law in
7 1988. When I first sat at my desk as the new
8 person in the office -- some of you are shaking
9 your head -- the partners were smoking in their
10 offices. I was completely offended by that,
11 but, you know, that was just the way it was.
12 People could smoke at their desk, and they did
13 all day long and -- and I had to smell it and
14 breathe it and inhale it.

15 So in 2002, the citizens of the State of
16 Florida by 70 percent decided that that 1985
17 law was not strong enough, and so they put an
18 amendment on the ballot that said, well, not
19 only does the Florida -- Florida have a Clean
20 Indoor Act statute, we're going to put in the
21 Constitution that you can no longer smoke in
22 private workplaces, in restaurants, and you
23 know the drill, you know what happened in 2002,
24 passed by 70 percent of the voters, super
25 majority of the voters passed the initiative.

1 So what's happened since 2002? What is
2 that, 15 years ago, 15 or so years ago?
3 Technology has evolved, and so in addition to
4 cigarettes, we now have a whole host of
5 electronic smoking devices, and that has
6 created an experience similar to smoking. The
7 first e-cigarette was introduced in the U.S.
8 market about 11 years ago.

9 The technology on these devices, the
10 health hazards on these devices is very clear.
11 I have documents that I've sent those of you
12 that have asked. I have the 600-page Surgeon
13 General report, which I did send to my good
14 friend, Commissioner Martinez. He wanted the
15 whole thing. For most of you, I just sent the
16 executive summary, which I think you were
17 probably appreciative of.

18 But I think it's important, because we are
19 talking about adding this into the
20 Constitution, I think it is important to point
21 out that in this Surgeon General's report,
22 which -- which is about e-cigarette use and the
23 health hazards and the second-hand smoking,
24 there was a conclusion by the Surgeon General
25 that nicotine exposure from e-cigarettes

1 causes -- during adolescence especially can
2 cause addiction and can harm the developing
3 adolescent brain, nicotine crosses the placenta
4 and has known effects on fetal and post-natal
5 development.

6 We also know that from this -- from the
7 Surgeon General report -- and this is where my
8 proposal comes in -- one of the calls to action
9 to the states of the United States were to
10 reduce e-cigarette exposure among citizens. It
11 is suggested that you place the e-cigarette ban
12 into the state's indoor workplace smoking ban.

13 And so at the suggestion of the Attorney
14 General that this has now reached the level of
15 danger for those of us that are inhaling
16 this -- these vapes and these aerosols from
17 these 400 different mechanisms out there on the
18 market. It is impossible to know what is in
19 these things. However, it is proven that --
20 and there is a -- there is science that talks
21 about and that -- and it is in the Surgeon
22 General reports -- the carcinogens, the
23 ingredients in these e-cigarettes are something
24 that we should all be concerned about, so
25 concerned that we had the Attorney Generals'

1 Association write a letter to the FDA asking
2 the FDA to regulate e-cigarettes as tobacco
3 products. Our Attorney General was one of the
4 signatures on that document, and the FDA now,
5 as of August of last year, regulates
6 e-cigarettes just like they do tobacco
7 products.

8 So it would be my hope that you agree that
9 it is time to put e-cigarettes and vaping into
10 the Constitution and update that 2002
11 Constitutional Amendment and add e-cigarettes
12 and vaping into the Constitution so that our
13 citizens can stop being experiments, because
14 that's what we've been for the last 16 years is
15 those of us that don't vape have been an
16 experiment for all of you, of all of the
17 citizens that are vaping.

18 And I think it is time to clean up our
19 restaurants, our malls, our movie theaters, and
20 our workplaces, so that we can all breathe
21 clean air again, which is what the 2002
22 Constitutional Amendment intended.

23 And with that, Mr. Chairman, that's the
24 explanation of the proposal. There are no
25 amendments.

1 CHAIRMAN BERUFF: Question on Proposal 65?
2 Are there questions on Proposal 65?
3 Commissioner Gaetz is recognized.

4 COMMISSIONER GAETZ: Thank you very much,
5 Mr. Chairman. Commissioner Carlton, my
6 understanding, and I'm sure you will correct me
7 if I my understanding is wrong, my
8 understanding is that the reason that you bring
9 this good proposal to this body is because
10 we've opened the whole question of smoking in
11 the Constitution, we have -- we have a section
12 of the Constitution which bans smoking in
13 public places and in workplaces, and,
14 therefore, this is, is it not, properly a
15 subject for constitutional revision, or as some
16 people might think, that this is something that
17 could simply be done in statute. Am I correct
18 in my understanding that that's why you bring
19 it to this body?

20 CHAIRMAN BERUFF: Commissioner Carlton.

21 COMMISSIONER CARLTON: Thank you, Mr.
22 Chairman, and thank you, Commissioner Gaetz.

23 Yes, that is exactly true. If -- if -- I
24 will answer your question this way: If there
25 were no smoking ban in the Constitution, I

1 would not have proposed this, because I think
2 opening up the Constitution to a new subject,
3 you know, requires a little bit heavier lift.
4 I might have done it because I feel very
5 passionately about this, but it certainly makes
6 it easier that we already have a very
7 lengthy -- in fact, it's a fairly lengthy
8 provision on smoking in the Constitution
9 already, and this would just update that to
10 reflect these new devices and this new
11 technology that has developed since the 2002
12 passage.

13 CHAIRMAN BERUFF: Commissioner Stemberger
14 is recognized.

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

17 Commissioner Carlton, maybe you addressed
18 this but I wasn't listening closely. Is there
19 a difference between electronic cigarettes and
20 vaping? And are you clear that the language
21 you've used here would cover both of those
22 devices?

23 CHAIRMAN BERUFF: Commissioner Carlton.

24 COMMISSIONER CARLTON: Thank you, and
25 that's actually a very good question. I did

1 not cover that and I probably should have.

2 We spent quite a bit of time defining
3 "vapor-generating electronic devices," and as
4 you can see from the language, it's fairly
5 detailed, because what we did not want to have
6 happen was in 20 years, us coming back and
7 saying, well, there's this new thing out there.

8 And so we worked with other states'
9 legislations. Other states have had this in
10 their Constitution. I didn't -- I didn't
11 mention all of that, but several other states
12 have actually put vaping in their smoking
13 indoor ban, and so we are sort of following
14 suits with other states, but it is a very
15 extensive definition.

16 We worked with the Department of Business
17 and Professional Regulations, with our legal
18 staff, with multiple attorneys. You saw the
19 outside counsels' legal analysis of the
20 proposal. We really think it is a fairly
21 extensive definition that covers everything
22 that is out there that is capable of being
23 vaped or thought about being vaped or may be
24 vaped from -- from -- you know, and I can read
25 the words here, but it's like -- it's

1 mechanical means capable of producing vapor,
2 aerosol from a nicotine product or any other
3 substance, including but not limited to,
4 laundry list of things. We think we've covered
5 it, we think we have.

6 But if we have not, I trust that Style and
7 Drafting will be able to look this over and
8 make sure that we have the right definitions in
9 the Constitution.

10 CHAIRMAN BERUFF: Favorite default, Style
11 and Drafting.

12 Commissioner Coxe is recognized.

13 COMMISSIONER COXE: Commissioner Carlton,
14 I understood Commissioner Gaetz' leading
15 question about why you have it in the
16 Constitution.

17 COMMISSIONER CARLTON: I did, too.

18 COMMISSIONER COXE: Could it be -- this
19 isn't an argument against it being in the
20 Constitution. Could the Legislature do this?

21 COMMISSIONER CARLTON: You know, I mean,
22 only you would have to stand up and ask me
23 that, because I -- if you notice, I avoided
24 answering that part of his question. Of
25 course --

1 COMMISSIONER COXE: It was --

2 COMMISSIONER CARLTON: Of course, the
3 Legislature, they can pass any laws they want
4 to. I mean, you know -- well, not any laws,
5 but they -- a great majority of things we're
6 doing here, the Legislature can do. And vaping
7 has been around for a long time and it begs the
8 question of why didn't the Legislature pass
9 something along these lines?

10 Honestly, I think it's because they knew
11 it was in the Constitution, and so if you -- if
12 you -- if you want to pass vaping, you know,
13 probably they were thinking, well, it --
14 smoking's in the Constitution. If you don't
15 like vaping, put that in the Constitution.

16 Obviously, I didn't notice any joint
17 resolutions, Commissioner Lee, but there have
18 been some proposals in the Legislature, I have
19 a copy of them through the years, of
20 legislators attempting to pass legislation, but
21 really this belongs in the Constitution.

22 CHAIRMAN BERUFF: Commissioner Keiser is
23 recognized.

24 COMMISSIONER KEISER: Commissioner
25 Carlton, my father smoked for over 40 years,

1 and I do remember the personal battle he had
2 before he died, and part of this included
3 vaping as a substitute. And I wonder if the
4 Legislature has not made a decision on this
5 because maybe the evidence that it is not safe
6 for others is conclusive, and like many of
7 these issues that we debate and debate, because
8 it's that important to spend this amount of
9 time in making decisions when it comes to what
10 finds a home in the Constitution, because it is
11 about our rights.

12 I just wonder if this really is
13 appropriate for the Florida Constitution. And
14 like you, Commissioner Carlton, I've absolutely
15 learned a lot from you. Having you serve as
16 our Appropriations Chair and as a leader in the
17 Senate for many, many years, I'd just like a
18 little more clarification.

19 Thank you.

20 CHAIRMAN BERUFF: Questions?

21 COMMISSIONER CARLTON: Thank you, Mr.
22 Chairman.

23 You know, I'm not a doctor and I don't
24 play one on TV, and I am not a scientist and I
25 went to law school, so I am not exactly the

1 greatest with math either. But I can -- I can
2 read a Surgeon General's report. And so that
3 is what I present to you, which is the Surgeon
4 General's report on the harmful effects and the
5 potentially harmful effects of e-cigarettes,
6 that e-cigarette aerosol is not harmless water
7 vapor.

8 Although it generally contains fewer
9 toxicants than combustible tobacco products,
10 ingestion and exposure to it can possibly lead
11 to acute toxicity and possible death. I mean,
12 you know, I have the reports here. There is
13 sufficient evidence in -- in the reports, in
14 the science, to say that we should all be very
15 concerned. I don't know how else I can say it.

16 I think that we have been part of a big
17 experiment for the last few years with these
18 vaping and e-cigarettes, and I don't know that
19 I am comfortable sitting up on this floor
20 saying I think it's safe. I mean, as a matter
21 of fact, why don't you just start vaping right
22 here? We would never do that with cigarettes.
23 But, quite frankly, about six months ago, I was
24 in the hallway of this building, and there was
25 someone in here vaping because, by the way,

1 there's no law that prevents them from vaping
2 in this Capitol. And you know what, I don't
3 know what was in that person's vape. Was it
4 tobacco? Was it nicotine? Was it another
5 toxic -- I mean, I can name you the chemicals
6 that these things contain, but the fact of the
7 matter is I think it's time to end the
8 experiment. And -- and I don't question
9 whether or why someone vapes, and for
10 Commissioner Keiser, for your father, I am
11 truly -- that breaks my heart, and I have
12 family -- I have members of my family that have
13 died from cancer as well from smoking.

14 But on this one, I just think that it is
15 time for us to end the experiment and -- and --
16 and clean our air. And so I think there is --
17 to answer your question, there is scientific
18 evidence enough that justifies us banning
19 vaping in public places.

20 CHAIRMAN BERUFF: Commissioner Bondi is
21 recognized.

22 COMMISSIONER BONDI: I just see this as
23 keeping up with technology. And, yes, the
24 Constitution is the appropriate venue for it
25 because that's where the cigarettes were put in

1 20 years ago. I don't think anyone could ever
2 contemplate e-cigarettes where kids can be
3 putting all this junk in them, taking them out
4 and smoking whatever they want. I think we are
5 just keeping up with technology, something that
6 was never contemplated 20 years ago, and it's
7 just about the workplace.

8 CHAIRMAN BERUFF: Questions on Proposal
9 65?

10 Seeing none, we will open it for debate.
11 Commissioner Timmann is recognized.

12 COMMISSIONER TIMMANN: Thank you, Mr.
13 Chairman.

14 I have a -- and I had shared this story
15 with the sponsor. I never really paid
16 attention to vaping or e-cigarettes. I knew
17 they were there. But I love every Monday
18 morning when I'm not here sharing some time
19 with our jurors who assemble in the courthouse,
20 making them feel comfortable, talking to them.

21 Had a large jury assembly one morning.
22 I'm looking out, and there's this little plume
23 of smoke coming up in the middle of jury
24 assembly. You can see a little bit of panic
25 starts, people are kind of looking around,

1 trying to figure out what's going on. I didn't
2 know until someone came up and whispered to
3 me -- actually, it was a deputy from our
4 Sheriff's Office -- because we have awesome
5 courthouse security, by the way -- so -- and
6 says, "Someone is vaping. What should we do
7 about this?" I assumed that it wasn't allowed.

8 To me, I thought it fell right under the
9 smoking ban. But then come to find out, it
10 didn't, and luckily there was enough pressure
11 from other jurors where this juror, you know,
12 kind of went outside and continued that. But I
13 had no idea and I didn't focus on it until that
14 time that that could happen. And all of a
15 sudden, whether -- wherever it would be, in my
16 offices, in the courthouse area, in the middle
17 of this big crowd of people causing a little
18 bit of panic, that someone could actually be
19 vaping. So with that, I certainly want to
20 support this really, really good measure.

21 And, also, one other thing, I -- when the
22 smoking ban originally occurred, I actually was
23 working for the Legislature, and I was
24 surprised that a big local business owner came,
25 and I thought, okay, they're going to be

1 complaining about the smoking ban. And she
2 said, "Can I talk to you privately," closed the
3 door, and she said, "You know, a lot of
4 business owners really want the Legislature to
5 pass this, or really want a Constitutional
6 Amendment on the smoking ban because we don't
7 want smoking in our businesses, but we're
8 afraid to make our customers angry.

9 So we want the Legislature to do it, or
10 the Constitution to do it, and take that on so
11 our customers don't get mad at us, but we don't
12 like this. We don't want smoking." And now
13 I'm sure I would believe they would say the
14 same thing about vaping.

15 As far as it being in the Constitution,
16 yes, that's where the smoking ban is. That's
17 where the public felt it should be, and it was
18 so strong there and I think this is a great
19 opportunity for us to just continue that, and
20 as the Attorney General said, let's keep up
21 with technology. This is technology. So I
22 think this is a great addition, and I think --
23 remember, this is workplaces. This is not
24 their homes. This is not their car. This is
25 not open areas. This is workplaces. And I

1 really encourage the other Commissioners to
2 give this good measure a lot of thought and
3 hopefully support it as well. Thank you.

4 CHAIRMAN BERUFF: Commissioner Lester is
5 recognized.

6 COMMISSIONER LESTER: This is one of those
7 moments when it's a great advantage to have
8 teenagers or young adults in your family,
9 because then I had someone I could go ask what
10 is vaping, because I didn't know. And so that
11 was the beginning of my education.

12 Again, I'd just like to sort of reinforce
13 Attorney General Bondi. To me, this is just a
14 modernization of language. This is just an
15 updating. If we were talking about putting a
16 smoking ban in the Constitution, now that -- I
17 could see a whole different debate going on
18 about that, and I'm not sure exactly where I'd
19 stand on that, but we already have something
20 about smoking.

21 To me, this is just updating the language.
22 It's not a perfect analogy, but at some point,
23 record stores weren't record stores anymore,
24 they had to change their language and their
25 advertisement because they don't sell records

1 and albums anymore, they sell CDs and then
2 they -- you know. So, to me, that's all this
3 is, and in that sense makes it one of the --
4 one of the easier issues we've had before us.

5 CHAIRMAN BERUFF: Is there debate?

6 Commissioner Thurlow-Lippisch is recognized.

7 COMMISSIONER THURLOW-LIPPISCH: Thank you.

8 I would just like to say that when I look
9 at what we're doing, the number one thing I
10 think about is 20 years out, and that what
11 we're doing is definitely affecting -- or
12 giving a message to the young people. And I
13 think Commissioner Carlton's proposal is very
14 important that the young people recognize that
15 vaping is a type of smoking and that it falls
16 under a similar auspices, and we should not
17 ignore any type of drug or any type of change
18 that can affect the desires of young people
19 because, absolutely, if they think it's not a
20 big deal, it's easier to start something like
21 that.

22 And I personally -- and I did read about
23 this, and some of the studies said that vaping
24 leads to smoking, especially when young people
25 start it. Thank you.

1 CHAIRMAN BERUFF: Commissioner Stemberger
2 is recognized.

3 COMMISSIONER STEMBERGER: Thank you, Mr.
4 Chairman.

5 I wanted to thank Commissioner Gaetz for
6 his comments around germanity. I think I'm in
7 the running, if not in the top three people,
8 that have the most strict view of what's
9 appropriate in the Constitution and what's not.
10 It's not a fundamental right, it's not a
11 structure of government, it's not limiting the
12 power of government, but it is a provision that
13 is in the Constitution, and that's the only way
14 it can be changed.

15 Since everybody has a vaping story, I have
16 my own. I was in the worst seat of a Delta
17 flight, back row literally and in the corner.
18 And the couple next to me was vaping on a
19 flight going to California. I couldn't even
20 believe it. I couldn't escape it. I didn't
21 know whether to report it. I was stunned. And
22 so I think this is a good proposal and I think
23 it's the right thing to do. Thank you.

24 CHAIRMAN BERUFF: It looks like debate is
25 over. Would you like to close, Commissioner

1 Carlton, on a very popular proposal?

2 COMMISSIONER CARLTON: Thank you.

3 I'm just going to -- I'm going to close
4 with this: In Cape Coral, we had a lady come
5 and testify before us, her name was Becky, and
6 she has Stage 4 inoperable cancer. She was a
7 beautiful young lady, she had dark hair and
8 beautiful eyes, and she was just very genuine
9 in her comments.

10 And so I think that -- I think that we are
11 doing this for the Beckys in the world, because
12 I don't think Becky wants to sit at her desk at
13 work and smell vape, because she is fighting
14 cancer -- every day of her life that she is
15 alive is a day that she's -- she's lived one
16 more day, and I don't think she wants to go to
17 the movie theater and smell vaping and inhale
18 vaping, and I don't think she wants to sit at a
19 restaurant and enjoy a meal with her family and
20 sit next to somebody who is vaping.

21 And so for -- for the Beckys that are
22 across this state and struggling for their
23 lives every day, and for those of us who do
24 like to breathe clean air, I would -- I humbly
25 ask for your support and your yes vote for the

1 proposal. And with that, I'll have closed, Mr.
2 Chairman.

3 CHAIRMAN BERUFF: Thank you.

4 Secretary, will you open the board for a
5 vote.

6 Commissioners, please vote.

7 Commissioners, please vote.

8 Please close the board and announce the
9 tally, please.

10 THE SECRETARY: Twenty-six yea's, six
11 nay's, Mr. Chair.

12 CHAIRMAN BERUFF: Thank you. The motion
13 is adopted and the proposal is committed to
14 Style and Drafting Committee. Thank you.

15 We will move on to Proposal No. 88.
16 Commissioner Heuchan, would you make your
17 comments.

18 COMMISSIONER HEUCHAN: Yes, sir. Thank
19 you, Chairman.

20 Proposal 88 has been a long journey for me
21 and for many of you. Over the last few weeks,
22 it's become very clear and apparent to me that
23 there are some very significant and very
24 legitimate concerns that were raised by
25 provisions in this proposal. I talked to a lot

1 of you about them.

2 Like in this process, the things that
3 other people have the most problem with are the
4 things that are the most important to you.
5 Those were the most meaningful reforms that I
6 sought to address.

7 To get this proposal in a place where it
8 could enjoy the support that's needed would
9 leave it in a place that -- that I wouldn't
10 want it, to be honest. And so I realized that,
11 like a lot of proposals that were before this
12 and a lot of the proposals that will come
13 behind this one that deserve our attention,
14 instead of going through the motions of this
15 proposal, I intend to ask you all to TP this
16 proposal, and it's also my intent to withdraw
17 this proposal.

18 And like in life and certainly in this
19 process when you become attached to something
20 and you love something and you want something
21 to happen and you have to let it go, it's very
22 difficult, but it is life and it is this
23 process and it's the way things are.

24 Before I finish, I want to say a few
25 things in addition to that. I want to thank

1 the Declaration of Rights Committee and
2 Commissioner Stemberger, Commissioner Donalds,
3 Commissioner Gainey, Commissioner Joyner, and
4 Commissioner Lester for the enormous amounts of
5 time that they spent on this. I want to thank
6 in particular Madam Chair Carlton for
7 everything that she's done for me, for this
8 proposal. And I also want to thank President
9 Gaetz, who stood by me in hard times.

10 So last I want to thank you, Mr. Chairman,
11 for giving me this opportunity and this
12 platform. I will continue to fight for the
13 rights of the elderly in our state and would
14 welcome all the help I could get. And with
15 that, I would like to TP this proposal.

16 CHAIRMAN BERUFF: So Proposal No. 88 is
17 temporarily postponed. We will move on to
18 Proposal 94.

19 Commissioner Nunez, would you like to
20 introduce your proposal?

21 COMMISSIONER NUNEZ: Thank you, Chairman
22 Beruff and Commissioners, for allowing me to
23 present Proposal 94 this morning.

24 Commissioners, by way of context, back in
25 2006, the Florida voters approved a State

1 Constitutional Amendment calling for a
2 comprehensive tobacco education and use
3 prevention program, which came to be known as
4 Tobacco Free Florida.

5 This program currently receives 15 percent
6 of the annual tobacco settlement payments made
7 to Florida, adjusted annually for inflation.
8 For fiscal year 2018-2019, that amounts to
9 roughly \$70 million.

10 Pursuant to that amendment, the
11 Legislature must annually appropriate an amount
12 equal to 15 percent of the settlement. So we
13 have no discretion in terms of the dollar
14 amount that we appropriate to Tobacco Free
15 Florida.

16 The 15 percent funding for Tobacco Free
17 Florida currently goes towards the following
18 constitutionally-mandated program components:
19 State and community interventions, cessation
20 interventions, surveillance and evaluation,
21 administration and management, as well as a
22 media and advertising campaign. The
23 Constitutional Amendment also stipulated that
24 one-third of the 15 percent must go to the
25 advertising and media campaign.

1 However, I also have an amendment that,
2 Mr. Chairman, I know we'll address at the
3 appropriate time that would include cancer
4 research as an allowable program component. I
5 removed that from the proposal, and so at the
6 right time we can address that. I just wanted
7 to clarify on the record that my amendment
8 intends to remove cancer research as considered
9 allowable program expenditure.

10 Let me start by saying, as many of you
11 know, I was unable to attend many of the public
12 hearings due to our time up here in the
13 legislative session. I don't know if that's a
14 good thing or a bad thing, but certainly I
15 didn't have the benefit of hearing some of the
16 statements that were made in regards to my
17 proposal.

18 And so I apologize to all of you in
19 advance because I understand it became a very
20 talked-about proposal throughout the public
21 hearing process. And so I know that there was
22 quite a few advocates that came out in
23 opposition to my proposal. I understand there
24 was even T-shirts made. And so it was quite
25 the -- quite the circus, I understand. So I

1 apologize in advance for that.

2 However, as many of us here in this
3 process have either been elected, have served
4 previously or are currently serving, I know
5 those of us in this process are no strangers to
6 criticism. I know that we are used to being
7 attacked, sometimes inaccurately, and I know
8 that oftentimes we get excoriated either by the
9 media or through social media, which has become
10 the mechanism to criticize legislators *de jour*.

11 But I can tell you that in my eight years
12 of serving in this process, I have never been
13 criticized as I have with this proposal, and so
14 much so that they have used falsehoods and
15 lies. In this little flyer that someone --
16 according to the flyer, stopprop94.com, they
17 put together a flyer where they have a photo of
18 me. They say "Meet Jeanette Nunez, responsible
19 for Proposal 94," and they have a little arrow
20 to an individual and they say "Meet Adrian
21 Nunez," and they say he is the husband of
22 Commissioner Nunez, an attorney for Jones Day
23 that represents big tobacco.

24 Well, I can tell you I don't know who that
25 guy is, but he's certainly not my husband, and

1 apparently he owes me a lot of money if he's
2 such a prominent attorney for big tobacco.

3 So I was shocked, I was honestly shocked,
4 because, again, in all my years of serving in
5 the Legislature, they have criticized me, and
6 sometimes rightfully so, sometimes wrongly so,
7 but never have they put out such outright
8 falsehoods. And so, for me, that was actually
9 shocking. And what was even more shocking is
10 that none of the organizations -- legitimate
11 organizations that have legitimate concerns
12 with my proposal, disavowed that type of
13 nonsense.

14 But that being said, let me start off, as
15 Commissioner Carlton did, to explain what this
16 proposal actually does and what it does not.
17 It does not -- it does not remove one single,
18 solitary penny from the Tobacco Free Florida
19 program. The proposal, if amended, no longer
20 would add cancer research as an additional
21 Tobacco Free Florida program component. That
22 was as an effort -- and I think Commissioner
23 Rouson and others throughout the committee
24 process, that was an effort to address the
25 legitimate concerns of the stakeholders. And

1 so I have amended this proposal a couple of
2 times in an effort of good faith to work with
3 the opposition and to address some of their
4 legitimate concerns.

5 The proposal does not change the overall
6 15 percent funding requirement as inscribed in
7 the Constitution. It does not have an
8 exorbitant fiscal impact. If you read some of
9 the staff analyses, both the original ones and
10 the updated ones done by outside counsel, it
11 alludes to a potential -- a fiscal impact to
12 the tune of 1.9 billion, upwards to 21 point
13 billion. Those numbers are a little
14 outlandish, and, again, for those of us in the
15 legislative process, we have seen fiscal
16 impacts and staff analyses sometimes
17 misrepresent the actual impact.

18 Our own Commissioner Diaz, when he filed a
19 Bill a few years ago to address Kid Care, our
20 children's health insurance program, they had
21 the fiscal impact one year, approximately
22 \$600 million, and miraculously, the next
23 session, that fiscal impact went to zero. And
24 so while I -- the first person to stand on this
25 floor and support the good work that staff does

1 in putting together these -- these fiscal
2 impacts, I will tell you there is no exact
3 science to them.

4 So let me also tell you that this proposal
5 does not remove marketing as one of the program
6 components. It simply does not remove it. It
7 does not require that we redirect dollars to
8 any other program.

9 So let me tell you what it does. This
10 proposal does remove that one-third funding
11 requirement that must go to marketing because,
12 quite frankly, I feel philosophically that a
13 number -- an arbitrary number -- and we've
14 talked about arbitrary numbers on various
15 proposals -- does not belong in our
16 Constitution. The -- it's the only program
17 that has a constitutionally-required dollar
18 amount. So why don't the other programs in the
19 Consti- -- in the program get inscribed in the
20 Constitution?

21 This proposal continues to adhere to CDC
22 best practices guidelines for tobacco
23 prevention programs. It's something we heard a
24 lot from, it's something I thought a lot about
25 and tried to address it in many of -- in my

1 discussions and in thinking through this
2 proposal.

3 This proposal provides the state -- if
4 passed, it will provide the state with
5 flexibility and accountability for funding
6 levels of all programs. This proposal also
7 increases the accountability by allowing the
8 legislative process to review and to address
9 the effectiveness of programs.

10 And, indeed, this proposal, as I believe
11 Commissioner Smith pointed out in committee,
12 would potentially allow for marketing dollars
13 to increase if the case has been made and the
14 results are there to show that that is the best
15 use for those dollars.

16 Personally, as I said previously, I do not
17 believe that a marketing program for Tobacco
18 Free Florida or otherwise rises to the level of
19 deserving a constitutionally-protected funding
20 requirement for a particular private vendor
21 contract. Like the other program components,
22 funding levels for marketing, in my opinion,
23 should fall under the purview of the
24 Legislature.

25 So what I can tell you from my years in

1 the Legislature is that often scrutiny and
2 pressure for results directly correlates to a
3 better run program.

4 There's nothing like an entrenched
5 organization that receives a consistent funding
6 stream, when you try to make a change, you'll
7 see nothing like that in trying to get these
8 people to come out of the woodworks and oppose
9 your proposal or your suggestions.

10 And so we just recently heard from
11 Commissioner Carlton as it relates to vaping,
12 and I know that we've had tremendous results.
13 I'm not going to stand here and say that
14 marketing has not had results. We've had
15 tremendous results in addressing youth in
16 particular. Those rates have gone down to 2.5
17 percent. And so, kudos, because certainly
18 we've made great strides in the State of
19 Florida. But that does not account for the
20 rise in vaping.

21 And so currently, if you -- as
22 Commissioner Lester indicated, if you ask any
23 teenager, that's what they're doing, they're
24 vaping. Teenagers aren't smoking anymore. And
25 so, again, the amendment and the requirement

1 for marketing doesn't allow us to address
2 vaping.

3 So I also started to wonder if marketing
4 is the only component that has a
5 constitutionally-mandated funding requirement,
6 how are the other programs accounted for and
7 what are their funding levels? And so if you
8 look at -- again, I tried to look at CDC best
9 practices, which is what the advocates continue
10 to hone in on.

11 If you look at it, the CDC currently
12 recommends that the State of Florida spend
13 \$194 million on the Tobacco Free Florida
14 program. Well, clearly, we don't spend
15 \$194 million, we spend 70. But if you look at,
16 on a percentage basis, on a dollar-for-dollar
17 basis, you go through the program categories,
18 and we are spending on a percentage basis more
19 than what the CDC requires or they recommend in
20 their guidelines. If you look at the
21 dollar-for-dollar basis, it is the only
22 program, the only program of the five programs,
23 that we reach the minimum recommended funding
24 levels that the CDC puts in their guidelines.
25 So, again, just food for thought.

1 So, for me, philosophically, again, I just
2 feel that a constitutionally-required number
3 that is arbitrary does not belong in the
4 Constitution.

5 Mr. Chairman, I think I've probably gone
6 on long enough. I know there's an amendment
7 that we can deal with, and so --

8 CHAIRMAN BERUFF: Thank you.

9 COMMISSIONER NUNEZ: -- that is my
10 opening.

11 CHAIRMAN BERUFF: Perfect timing.

12 Questions for Proposal 94? Commissioner
13 Gaetz is recognized.

14 COMMISSIONER GAETZ: Thank you very much,
15 Mr. Chairman, and Commissioner Nunez, thank you
16 for making the comments that you made with
17 respect to the nature of the -- of the
18 opposition to your proposal.

19 Personal attacks have no place in the
20 deliberative body and they have no place in
21 advocacy toward members of a deliberative body.
22 So I'm sorry that you were subjected unfairly.
23 Advocates ought to be judged on the basis of
24 their proposals and not attacked personally.

25 Having said that, let me ask you, what

1 would be, in your judgment, the impact on the
2 allocation of funds or on marketing with
3 respect to the current constitutional
4 provision, assuming yours doesn't pass? What
5 would be the impact of Senator Carlton's
6 proposal on -- if it were to pass, on the
7 allocation of funds and on marketing?

8 You -- you -- you referenced vaping in
9 your proposal -- in your comments and talked
10 about how we needed to, in effect, take account
11 of the fact that young people are now vaping.
12 Would you -- in your judgment, would the
13 current constitutional language prevent the use
14 of funds to discourage vaping if Senator
15 Carlton's proposal were in the Constitution?

16 CHAIRMAN BERUFF: Commissioner Nunez.

17 COMMISSIONER NUNEZ: Thank you, Mr.
18 Chairman, and thank you for that excellent
19 question, Commissioner Gaetz.

20 So it is my understanding in meeting with
21 some individuals involved with the advertising
22 side of Tobacco Free Florida, that they are
23 currently hamstrung, that they are not able to
24 address vaping because the Constitutional
25 Amendment did not address it. So regardless of

1 whether Commissioner Carlton's proposal passes
2 or not, I do not believe that Tobacco Free
3 Florida can sort of go outside their lane and
4 address vaping.

5 I say that -- I said that and I reference
6 that just because as it relates to -- first of
7 all, as it relates to the reduction in smoking
8 particularly at the youth level, which is at
9 2.5 percent. I don't know how much more we'll
10 be able to make headway in terms of reducing
11 it. I know certainly it could -- it could
12 assist with preventing youth from starting to
13 begin with, but I say that because when I spoke
14 to that individual, I thought about perhaps
15 there is a way through this proposal, if in
16 Style and Drafting -- if it gets through, if it
17 gets to Style and Drafting, to address the
18 ability of Tobacco Free Florida to be able to
19 make some progress and be able to allow them --
20 to release the handcuffs and allow them to
21 address vaping. But that's a big "if,"
22 Commissioner Gaetz, as you know, so I don't
23 want to get ahead of myself.

24 CHAIRMAN BERUFF: Questions? Commissioner
25 Carlton is recognized.

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

3 And I am going to take the liberty, if the
4 sponsor is okay with it, the Tobacco Free
5 Florida does, in fact, have a campaign on
6 e-cigarettes and vaping. They have their SWAT
7 teams on it. They have tool kits. They, like
8 the rest of the state, are catching up to the
9 technology. And so they are currently using
10 dollars for the vaping.

11 Now, I would argue they need to use more
12 for the vaping, and that would probably --
13 their response would probably be, well, we need
14 more money to do that, but that begs the
15 question.

16 So my question to -- to Commissioner Nunez
17 is this: Commissioner Nunez, we did not have
18 one single person on the public hearing tour
19 that we did the first time or the second time
20 speak in favor of this amendment. I'm not sure
21 out of the, you know, 6,000 e-mails -- I don't
22 know how many e-mails I've gotten, I mean, it's
23 been a lot -- on issues from -- from CRC -- I
24 don't think, of the ones that I've been able
25 to, you know, to read because there are so many

1 of them, sometimes it's hard to read the whole
2 thing and get to them, that I don't think I've
3 gotten one single e-mail that is in favor of
4 this proposal.

5 So we have a standard here of -- this is
6 an idea that is already embedded in the
7 Constitution, voted on by the people in 2006.
8 So now you are asking us to change that. So my
9 standard is -- is that's already in the
10 Constitution, passed by the people, by a super
11 majority of the people, and you're asking us to
12 now change it because you think it's not
13 operating correctly. But I'm not seeing a
14 ground swell from the public that says we need
15 to change it.

16 So my question to you is, where's the
17 ground swell, like where is the ground swell
18 telling us that we need to change something
19 that was passed on -- that was passed by the
20 people, by a super majority of the people,
21 where is the ground swell? Help me understand
22 that.

23 CHAIRMAN BERUFF: Commissioner Nunez.

24 COMMISSIONER NUNEZ: Thank you, Chairman,
25 and thank you, Commissioner Carlton. So a

1 couple of -- a couple of comments.

2 As it relates to the program perhaps not
3 working appropriately, I would just point to
4 the previous vendor that had this -- that had
5 this contract on the ad side, they sort of lost
6 their way, in my opinion, and in the opinion of
7 the Tobacco Advisory Council.

8 They decided that it would be appropriate
9 to start advertising in Tampa Bay Lightning
10 games or in other major sporting events.
11 Clearly, the council thought that that was an
12 inappropriate use of dollars, and so that
13 particular agency lost the contract, and now it
14 is part of their -- I don't know if it's rules,
15 regulations, that that's not an appropriate
16 expenditure of advertising dollars.

17 As it relates to the ground swell that you
18 mentioned, yes, I recognize that there has been
19 thousands and thousands of e-mails. A number
20 of individuals from these organizations have
21 come out in droves. I even got -- well, I
22 didn't get a packet, but apparently all of you
23 got a packet with a little -- little paper
24 cut-outs of little dolls saying "We don't
25 support this" and "I'm doing it for my

1 grandson" or "I'm doing it for the millions of
2 Floridians." So I -- I can tell you that I
3 don't have at my disposal the type of firepower
4 or the type of -- the ability to drive hundreds
5 of thousands of people to a public hearing.
6 But what I will tell you is in -- again, and I
7 use my legislative experience often on -- in
8 this -- in this process because it's what I
9 know.

10 I will tell you that there is something to
11 be said about the silent majority. The average
12 citizens, that when you talk to them, and I
13 have, I've talked to a number of individuals
14 back home, and they don't realize that when
15 they voted for this particular amendment, that
16 we put in a one-third marketing requirement,
17 and their comments -- and I'm not saying
18 they're right, but their comments are like,
19 "Oh, that was probably some big ad agency that
20 got that in there and was wanting to dupe the
21 public." I'm not saying that I subscribe to
22 that thought, but I am telling you that in
23 other experiences -- and, again, I will
24 reference the Expressway Authority from back
25 home -- they decided in a -- a few years back,

1 they decided to raise tolls. And their
2 rationale to me was because that no one showed
3 up at the public hearing to oppose it.

4 I said, well, yes, of course not, because
5 people are busy getting home, putting food on
6 the table, trying to get their kids' homework
7 done. So the average citizen doesn't have time
8 to show up to public hearings of that nature.
9 Obviously, the individuals that showed up, I
10 believe most of them were advocates or part of
11 volunteer organizations. And so average
12 individuals that I have talked to don't
13 necessarily agree with the one-third
14 requirement. So that's what I have to say to
15 that.

16 COMMISSIONER CARLTON: A follow-up.

17 CHAIRMAN BERUFF: Commissioner Carlton.

18 COMMISSIONER CARLTON: Okay. Thank you
19 for that. It -- I appreciate that answer. I
20 am going to move to a different subject, a
21 different question.

22 So one of the things that, you know, you
23 and I both have teenagers. So we know that one
24 of the things with teenagers is they listen to
25 teenagers more so than they listen to their

1 parents. And I think that is really what is at
2 the heart of this program, which it's -- it's
3 the SWAT teams of these teenagers and the peer
4 pressure of good choices from these teenagers
5 of, you know, convincing their fellow students
6 and friends, you know, not to smoke and not to
7 start smoking. That has been proven.

8 Now, I am going to give you the billion
9 dollar figure that you mentioned earlier. You
10 know, if your proposal passes, I cannot verify,
11 probably Commissioner Donalds might be able to
12 do it, I cannot verify whether, you know, the
13 fiscal on that is correct, you know. I don't
14 know what the effect of reducing the prevention
15 program, I do not know what the effect of that
16 is on the budget and to people's lives, but we
17 all know that if you stop any amount of
18 prevention, that you're going to start adding
19 people to the rolls of the cigarette smokers.
20 That is just -- that is what is going to
21 happen.

22 So my concern here is that we have a
23 constitutional guarantee of the one-third.
24 That was in the proposal that was passed. Any
25 coming off of that one-third, given the fact

1 that big tobacco has billions and billions of
2 dollars at their disposal to encourage smoking,
3 and we all know they are working on the next
4 generation, they've got to start when they're
5 young in order to have smokers when they're
6 old, that the fear is that by reducing this
7 money, we're-- we're really just allowing big
8 tobacco to take over and we won't have the
9 firepower we need to stop these young kids from
10 smoking. So that's a concern. I wondered what
11 you would say about that with regard to your
12 proposal.

13 CHAIRMAN BERUFF: Commissioner Nunez.

14 COMMISSIONER NUNEZ: Thank you, Mr.
15 Chairman, and thank you, again, Commissioner
16 Carlton. I know this is an important topic and
17 something you feel very passionate about.

18 So I would say that for the -- the issue
19 that you raised on the fiscal impact, that
20 analysis was done to the original proposal,
21 which redirected 20 percent of the funding. So
22 in my opinion, I do not believe that the fiscal
23 is -- is valid anymore, because that was
24 assuming a redirect.

25 And you referenced removing or reducing

1 dollars, and so, again, I can't reiterate
2 enough, this proposal does not remove one
3 single penny, it does not require one single
4 penny that is currently being spent today to be
5 removed, to be redirected, to be reduced, to be
6 eliminated. That is simply false. The money
7 will stay the same. The 70 million in the next
8 fiscal year that begins July 1 will stay the
9 same. The program categories will stay the
10 same. It continues to grow with inflation. So
11 those dollars are going to continue to grow in
12 perpetuity.

13 I will tell you that the only thing I'm
14 saying is let there be a legislative review of
15 the efficacy of each of the program categories.
16 I'm not singling out marketing. I'm just
17 saying all the program categories, in my
18 opinion, it is a healthy process to have a
19 review of their efficacy, of their
20 effectiveness. And so if more dollars for
21 marketing are required, then so be it. We
22 should -- if -- 40 percent, if we want to spend
23 40 percent on marketing because we feel it is
24 so effective and we want to make headway
25 against big tobacco, then so be it, we can do

1 that. Right now, we cannot do that.

2 And so the other point I will make is that
3 some of the advocates have said that this
4 proposal obviously will reduce marketing
5 dollars and it will, in turn, increase smoking
6 rates because big tobacco is going to get a leg
7 up. Well, by the same token, they claim that
8 big tobacco spends half a billion dollars on
9 marketing and advertising its products in
10 Florida. And so they can't say marketing is
11 effective, but yet big tobacco is outspending
12 them to the tune of hundreds of millions of
13 dollars, but yet they still have had tremendous
14 success.

15 So there's a little bit of a discrepancy
16 in my mind as to the effectiveness of the
17 marketing on the big tobacco side vis-à-vis the
18 marketing on the -- on the other side.

19 CHAIRMAN BERUFF: Commissioner Carlton?

20 COMMISSIONER CARLTON: There is another
21 follow up.

22 CHAIRMAN BERUFF: Follow up. Commissioner
23 Carlton.

24 COMMISSIONER CARLTON: Yes, okay. So,
25 then, it seems to me like if this program is in

1 such need of review, that it is a little
2 drastic to go in and change the entire
3 Constitution just to review it. I mean, it's
4 already subject to the CDC standards of the
5 smoking council that I don't know what it's
6 called. There's a council that oversees the
7 money.

8 The Legislature can review any item it
9 wants to. I know they're not general revenue
10 dollars. The Legislature is completely free to
11 review the money anytime they want to.

12 In addition to that, there's also within
13 the program a review of these dollars by -- I
14 think it's two universities in the state, and I
15 can't remember which two it is. They also have
16 money that oversees and oversights and reviews
17 this. So why is it necessary to have a
18 Constitutional Amendment just to review the
19 dollars that are already being reviewed by like
20 three different organizations?

21 CHAIRMAN BERUFF: Commissioner Nunez.

22 COMMISSIONER NUNEZ: Thank you, Chairman.

23 So, again, the -- the CDC guidelines are
24 just that, they're guidelines. The CDC doesn't
25 appropriate dollars.

1 And certainly, as it relates to the
2 efficacy of the programs, I think it -- I think
3 it is our responsibility to review programs,
4 regardless of a council that consists of
5 various people from the community. Again,
6 having my legislative hat on, I just feel
7 strongly that there should be legislative
8 review.

9 And I think there was one other part of
10 your question that I did not answer, so if you
11 want to follow up on that.

12 Oh, I know what it was, Mr. Chairman. You
13 mentioned why would it need to be done in the
14 Constitution. So were it not for this being in
15 the Constitution, I would not be proposing it
16 being done through that mechanism, but,
17 unfortunately, again, our hands are tied with
18 regards to the one-third requirement. So
19 that -- that is the answer to that part.

20 CHAIRMAN BERUFF: Commissioner Carlton.

21 COMMISSIONER CARLTON: But you don't have
22 to change the Constitution for the Legislature
23 to do a review of the money, correct?

24 COMMISSIONER NUNEZ: Thank you, Chairman
25 Beruff.

1 No, that's not correct, because we have to
2 spend a third on marketing, regardless of what
3 we feel the efficacy of those marketing
4 programs have yielded.

5 COMMISSIONER CARLTON: I didn't say spend,
6 because it's not general revenue dollars, so
7 you're really not spending it anyway, you're
8 just appropriating it, but I said review it.
9 You don't need a constitutional change to
10 review the tobacco dollars and how they're
11 being spent. Even though they're not general
12 revenue dollars, you don't need to change the
13 Constitution to do that, correct? A review?

14 COMMISSIONER NUNEZ: Thank you, Chairman
15 Beruff. Well, certainly they could review it,
16 but if in their review they found that the
17 dollars were not being used appropriately,
18 there would be nothing the Legislature could
19 do.

20 CHAIRMAN BERUFF: Commissioner Carlton.

21 COMMISSIONER CARLTON: You could file a
22 joint resolution and change the Constitution
23 then, based on the evidence that there was
24 something wrong with the way the dollars were
25 being spent, correct?

1 CHAIRMAN BERUFF: Commissioner Nunez.

2 COMMISSIONER NUNEZ: Thank you, Chairman
3 Beruff.

4 Well, the same could be said of your
5 proposal as well. We could file a joint
6 resolution to address vaping.

7 COMMISSIONER CARLTON: That's true.

8 CHAIRMAN BERUFF: Commissioner Carlton.

9 COMMISSIONER CARLTON: That's true.

10 CHAIRMAN BERUFF: Commissioner Joyner is
11 recognized.

12 Commissioner Rouson, you are recognized.

13 COMMISSIONER ROUSON: Thank you very much,
14 Mr. Chair.

15 In -- Commissioner Carlton asked much of
16 what I was going to ask, so let me try to
17 redirect this. You're not removing any dollars
18 by this proposal, but you do want to disregard
19 the constitutional mandate of the voters in
20 favor of giving the Legislature flexibility in
21 terms of spending this amount; is that correct?

22 CHAIRMAN BERUFF: Commissioner Nunez.

23 COMMISSIONER NUNEZ: Thank you, Chairman
24 Beruff.

25 And I, like you, took an oath to uphold

1 the Constitution, so I would never stand on
2 this floor and say I want to disregard the will
3 of the voters. I do want them to have an
4 opportunity, if we get to the point where
5 enough of us here feel comfortable that this is
6 something that we should address, I want to
7 give them an opportunity to weigh in on the
8 one-third requirement being specifically
9 earmarked and enshrined in our Constitution for
10 advertising and media, yes.

11 COMMISSIONER ROUSON: So my question,
12 Mr. Chair, my question was, you are favoring
13 giving the Legislature flexibility in terms of
14 how that one-third should be spent?

15 CHAIRMAN BERUFF: Commissioner Nunez.

16 COMMISSIONER NUNEZ: Thank you, Chairman
17 Beruff.

18 I am in favor of giving the voters the
19 opportunity to weigh in on as to whether or not
20 they want to give the Legislature the
21 flexibility and accountability that I believe
22 this proposal would bring forth.

23 CHAIRMAN BERUFF: Commissioner Rouson.

24 COMMISSIONER ROUSON: So that then lends
25 itself to the fact that you want ultimately the

1 Legislature to have decision-making power over
2 the funding levels in these areas that the
3 one-third is going to; is that correct?

4 CHAIRMAN BERUFF: Commissioner Nunez.

5 COMMISSIONER NUNEZ: Thank you, Chairman
6 Beruff.

7 Ultimately, yes, I would agree with your
8 statement.

9 CHAIRMAN BERUFF: Commissioner Rouson.

10 COMMISSIONER ROUSON: 5,200 people died in
11 the state of Florida in the year of 2016 alone.
12 Fourteen to 16 continued to die every day in
13 this state due to the addiction crisis before
14 Parkland, and then 17 people horrifically and
15 tragically lost their lives in one day and the
16 world was watching.

17 Fourteen to 16 continue to die every day
18 since Parkland in this state due to the
19 addiction crisis. The Legislature had some
20 flexibility and decision-making power over
21 funding addiction.

22 Do you think that by giving the
23 Legislature more flexibility over something
24 like prevention marketing that leads to a
25 reduction in addiction from tobacco crisis is

1 an appropriate function of this --

2 CHAIRMAN BERUFF: Commissioner Nunez.

3 COMMISSIONER NUNEZ: Thank you, Chairman,
4 and thank you, Commissioner Rouson, for
5 bringing that point up. Obviously, I share in
6 your pain, and we sat here a few weeks ago and
7 had to deal with that issue, and, obviously, we
8 met with the students and we saw -- we met with
9 the parents and obviously it was a very
10 difficult and contentious and emotional issue
11 for all of us.

12 The only thing I will say to that is that
13 if you look at, again -- and I'm going based on
14 CDC guidelines, because that was what the
15 advocates continued to point to. If you look
16 at the CDC guidelines and the descriptions of
17 the different programs that they list, the only
18 one that they referenced is the state and
19 community interventions, which is working with
20 each of the individual counties.

21 So the only program that they talk about
22 having the greatest long-term impact is state
23 and community interventions, not the
24 advertising and mass retail communications
25 intervention. So the CDC guidelines

1 specifically reference one of the other
2 programs, which, by the way, is woefully
3 underfunded because it does not have a
4 prescribed funding requirement in the
5 Constitution, as having the greatest long-term
6 population impact, and yet we don't fund it to
7 the -- not even the minimum level. We are not
8 even close to funding that particular program
9 to the tune of what the CDC recommends. So,
10 again, flexibility and accountability from the
11 CDC themselves.

12 CHAIRMAN BERUFF: Commissioner Rouson.

13 COMMISSIONER ROUSON: And I guess that's
14 my question. If it is insufficient now, what
15 makes us think that by giving the Legislature
16 more flexibility, it will rise to a level of
17 sufficiency?

18 CHAIRMAN BERUFF: Commissioner Nunez.

19 COMMISSIONER NUNEZ: Thank you, Chairman,
20 and -- and I think many on this floor would
21 argue that we don't spend nearly enough, but
22 the 15 percent is what the 15 percent is. That
23 was the amount that the amendment dictated we
24 spend on the overall program. I am merely
25 speaking about the different components, of

1 which there are five, as it relates to how are
2 we funding them, what is the process by which
3 we review it, and which one, according to the
4 CDC, has the potential to have the greatest
5 long-term impact. So, again, if there are
6 tweaks that need to be made, I think it's
7 wholly appropriate for it to be under the
8 legislative purview.

9 CHAIRMAN BERUFF: Questions on Proposal
10 94? Commissioner Stemberger is recognized.

11 COMMISSIONER STEMBERGER: Thank you, Mr.
12 Chairman.

13 Commissioner Nunez, do you agree -- I'm
14 looking at the independent analysis that was
15 given to us on page 4. It says, "Proposal 94
16 has two primary effects: To eliminate a
17 specified amount of funding for advertising
18 targeted tobacco education and prevention, and
19 add cancer research to the list of components
20 of the program." Do you agree that that's the
21 two primary effects of Proposal 94 on page 4 of
22 the independent analysis, top of the page?

23 CHAIRMAN BERUFF: Commissioner Nunez.

24 COMMISSIONER NUNEZ: Thank you, Chairman.

25 So I mentioned at the onset that I have an

1 amendment that removes the cancer research to
2 the list of components. So, no, I don't agree
3 that that would be an intended effect.

4 And as it relates to the first one,
5 eliminate a specified funding for advertising,
6 I would say that I disagree with the -- with
7 the wording, but, clearly, we're not going to
8 go into wordsmithing here. I would just say it
9 removes the requirement, but it doesn't
10 necessarily remove the funding. It could
11 increase, it could stay the same. So that's my
12 commentary on those two items.

13 COMMISSIONER STEMBERGER: And --

14 CHAIRMAN BERUFF: Commissioner Stemberger.

15 COMMISSIONER STEMBERGER: Thank you, Mr.
16 Chairman, I'm sorry.

17 What precisely -- what problem are we
18 trying to solve with this proposal precisely?

19 CHAIRMAN BERUFF: Commissioner Nunez.

20 COMMISSIONER NUNEZ: Thank you, Chairman.

21 And if you were listening to the exchange
22 between Commissioner Carlton and I, she
23 referenced that, she referenced that no one had
24 come up with -- to the public hearings or had
25 come up sending an e-mail in favor of this

1 proposal and addressing this particular
2 problem.

3 Again, for me personally, I believe
4 strongly that a number -- again, an arbitrary
5 number, whether you listen to Commissioner
6 Schifino's discussion as to the ten-year versus
7 five-year, I don't believe that an arbitrary
8 number should belong in the Constitution, and
9 certainly I think that having the flexibility
10 to be able to address each of these program
11 components in a way that looks at the program
12 in an in-depth way, I think it is a good thing
13 for the State of Florida.

14 CHAIRMAN BERUFF: Commissioner Stemberger.

15 COMMISSIONER STEMBERGER: So if I could
16 ask you a leading question. So you're saying
17 that the problem is that the people of the
18 State of Florida put something in the
19 Constitution and you want to change that?

20 CHAIRMAN BERUFF: Commissioner Nunez.

21 COMMISSIONER NUNEZ: Thank you, Chairman.

22 No, I wouldn't agree with that. I
23 wouldn't say that the problem is the people of
24 Florida put something in the Constitution. I
25 think it is wholly appropriate for them to

1 weigh in again -- again, if we've listened to,
2 I believe, Commissioner Keiser's proposal, many
3 of the voters that go and vote on a particular
4 ballot item perhaps don't read the entire
5 language, the entire summary.

6 So I think if you ask -- if you go home
7 and ask your neighbors if they realize that
8 there was a funding requirement to the tune of
9 one-third for marketing and advertising versus,
10 let's say, smoking cessation that has actual
11 data, actual science, that they can prove and
12 point to and say this program -- these
13 smoking-cessation programs resulted in
14 85 percent of the people that went through the
15 program in quitting smoking and things of that
16 nature. So if you look at data on smoking
17 cessation, for example, you can point to that
18 and say, "Do you think we should spend more on
19 this program, less on this program," and you
20 can say that about any of the other programs.

21 And so I think it's simply a conversation
22 that we need to have. I think the voters need
23 to be able to -- to say if they feel that they
24 want to continue to have the dollars the way
25 that they are currently prescribed in the

1 Constitution to continue to flow in that
2 manner.

3 CHAIRMAN BERUFF: Commissioner Stemberger.

4 COMMISSIONER STEMBERGER: So I'm just
5 trying to be -- I'm trying to be clear, and I
6 don't want to misquote you, but -- so you're
7 saying that the problem that we're solving is
8 that we're giving -- I am not sure -- that
9 we're giving the public another opportunity to
10 look at reallocating this money, and --

11 CHAIRMAN BERUFF: Commissioner Nunez.

12 COMMISSIONER STEMBERGER: -- I'm trying to
13 figure out what the problem is in that -- in
14 that.

15 CHAIRMAN BERUFF: Commissioner Nunez.

16 COMMISSIONER NUNEZ: Thank you, Chairman.

17 So what I would say is that we are giving
18 the public accountability and consistency in
19 terms of making sure that there's transparency
20 and accountability in those dollars. If you
21 heard my previous statement, and this is not on
22 a knock on the current vendor that has the
23 Tobacco Free Florida campaign for media and
24 advertising, but if you look at the previous
25 vendor, they, in my opinion, lost their way and

1 sort of strayed from their mission of trying to
2 promote what they were doing through their ads
3 in reducing smoking and getting kids not to
4 start. So if you look at it from an
5 accountability perspective and from a
6 transparency perspective, I would tell you that
7 that's where the problem is.

8 COMMISSIONER STEMBERGER: Thank you,
9 Mr. Chairman.

10 CHAIRMAN BERUFF: That ping-pong match is
11 over.

12 Commissioner Sprowls.

13 COMMISSIONER SPROWLS: Thank you,
14 Mr. Chair. Thank you, Commissioner Nunez.

15 Just a couple of questions, and you may
16 have said it earlier, but I just want to make
17 sure that I'm clear on this point.

18 I think you said the CDC did some research
19 regarding which programs worked best for
20 prevention and I think what the recommendations
21 are for funding levels and what the adequacy
22 levels are. Could you tell us, are there --
23 are there particular programs that the CDC has
24 focused on to say that they are the best at
25 stopping or best at prevention, and are we

1 adequately funding them currently?

2 CHAIRMAN BERUFF: Commissioner Nunez.

3 COMMISSIONER NUNEZ: Thank you, Chairman
4 Beruff.

5 And let me be clear. The CDC recognizes
6 that marketing works, and I do as well. And I
7 think everyone on this floor recognizes that
8 marketing works in either getting people to
9 quit or in avoiding them to start smoking at
10 all. But if you look at -- again, and I can
11 only go by what the guidelines say because
12 that's where the advocates continue to point me
13 towards in terms of coming up with an
14 appropriate proposal, but if you look at the
15 CDC best practices funding recommendations, on
16 a percentage basis, they recommend state and
17 community interventions at roughly 29 percent,
18 versus marketing that they recommend at
19 19 percent.

20 If you compare that to ours in terms of a
21 percentage basis, we have -- we have marketing
22 communications at 33 percent. So roughly
23 14 percent -- we're 14 percent higher than what
24 the guidelines are, recognizing, again -- I
25 don't want to mislead anyone, recognizing,

1 again, that we don't fund to the levels that
2 the CDC recommends, which is 194 million.

3 CHAIRMAN BERUFF: Commissioner Sprowls.

4 COMMISSIONER SPROWLS: Thank you,
5 Mr. Chair, and thank you for that answer.

6 So if we're 14 percent higher than the
7 recommendation percentage-wise of the total
8 amount of funds on that, and you said marketing
9 was, I think, second on the list as far as
10 effectiveness or what they recommend, the CDC,
11 how -- are we underfunded in the
12 community-based programs, and if so, by how
13 much?

14 CHAIRMAN BERUFF: Commissioner Nunez.

15 COMMISSIONER NUNEZ: Thank you, Chairman.

16 So I wouldn't say the CD -- the CDC says
17 marketing is the second best on the list. I
18 don't think they rank them in terms of
19 effectiveness.

20 What I was saying earlier is in their
21 description of the programs, the state and
22 community interventions, they highlight as the
23 one that has the greatest long-term population
24 impact. So from their perspective, that's the
25 one that down the road will really have the

1 ability to curb smoking, to reduce smoking, to
2 avoid youth from starting to smoke.

3 What was the other part of your question,
4 I'm sorry?

5 CHAIRMAN BERUFF: Commissioner Sprowls.

6 COMMISSIONER SPROWLS: Thank you, and
7 thank you for that.

8 I guess the second part to that question
9 was if their recommendation for community-based
10 programs -- I may be saying that wrong,
11 Commissioner Nunez -- where do we -- where are
12 we in the pecking order as far as funding that
13 percentage-wise based on their recommendation?

14 CHAIRMAN BERUFF: Commissioner Nunez.

15 COMMISSIONER NUNEZ: Thank you, Chairman.

16 We are on a percentage basis probably
17 about five percent below what the -- what the
18 category calls for. And these are rough
19 numbers, so I certainly don't want anyone --
20 any of the organizations that are going
21 through -- and, again, like Commissioner
22 Carlton said, I got into politics, so math is
23 probably not my forte, but certainly
24 recognizing these are rough estimates.

25 CHAIRMAN BERUFF: Commissioner Sprowls.

1 COMMISSIONER SPROWLS: Thank you,
2 Mr. Chair.

3 So just to kind of wrap that then, if I
4 understand you correctly, what you're saying is
5 that what the CDC recommends as far as funding
6 percentages, we are 14 percent above in one
7 area of marketing, and we are below in the
8 community-based programs area. Is that right?

9 CHAIRMAN BERUFF: Commissioner Nunez.

10 COMMISSIONER NUNEZ: Thank you, Chairman.

11 Yes, we are on a percentage basis and a
12 dollar-for-dollar basis below on every
13 category. So every category, if you look at
14 Florida's spending versus the CDC recommended
15 spending, we are below: In some cases,
16 woefully below. But what I will add is that if
17 you look at the minimum dollars that they ask
18 -- that they recommend that each state fund on
19 marketing, we meet or we approach the minimum
20 dollar amount that they recommend. We don't
21 approach that on any other category.

22 CHAIRMAN BERUFF: Commissioner Bondi.

23 COMMISSIONER BONDI: Thank you.

24 Did you all receive the letter from
25 General Butterworth that I did? I -- I -- I

1 talk to General Butterworth frequently for
2 advice. He was one of the longest, as you
3 know, or the longest Attorney General in our
4 state's history, and he sent a letter regarding
5 this. This was way before my time, obviously,
6 the tobacco settlement. And I also talked to
7 Trish Connors from my office, who agrees with
8 General Butterworth.

9 Now, when he wrote this letter, he thought
10 that the cancer research part was still in
11 there. Now that that's being removed, it
12 changes it a bit, but not really.

13 You're all welcome to the letter, but
14 here's the essence of it: Florida's team of
15 lawyers worked long and hard to make sure a
16 portion of the settlement money was used
17 against big tobacco and its grotesquely
18 aggressive marketing efforts. As you know, no
19 taxpayer dollars are used for the Tobacco Free
20 Florida campaign. Every dollar is funded by
21 big tobacco through this settlement.

22 You are welcome to the letter. It also
23 talks about the cancer research is the wrong
24 place and -- but he says, "Make no mistake, the
25 best investment we can make in preventing -- is

1 preventing smoking in the first place." And,
2 again, they worked long and hard on this, so I
3 just wanted to read this from -- from General
4 Butterworth.

5 CHAIRMAN BERUFF: Further questions?
6 Seeing none -- question, Commissioner Joyner,
7 please.

8 COMMISSIONER JOYNER: Thank you.
9 Commissioner Nunez, where are the
10 science-based healthcare organizations, what's
11 their position on this proposal, the Cancer
12 Society, the Heart Association, and the
13 American Lung Association?

14 CHAIRMAN BERUFF: Commissioner Nunez.

15 COMMISSIONER NUNEZ: Thank you, Chairman
16 Beruff.

17 Commissioner Joyner, I think everyone on
18 this floor knows where they are. They've come
19 on in droves and they are opposed to the
20 proposal.

21 CHAIRMAN BERUFF: Commissioner Joyner.

22 COMMISSIONER JOYNER: Well, that's good to
23 know that everybody on this floor knows it now,
24 everybody who is tuned in knows it because
25 folks don't always keep up with everything that

1 we are doing, and so I've always been one for
2 putting the obvious on the record.

3 You know, in our -- you said transparency
4 and accountability and the prior vendor made a
5 misstep. How was that corrected then? Who
6 corrected the misstep by perhaps getting
7 another vendor or stopping that vendor from
8 whatever they were doing that was obviously not
9 correct by -- based on your statement?

10 CHAIRMAN BERUFF: Commissioner Nunez.

11 COMMISSIONER NUNEZ: Thank you, Chairman
12 and Commissioner Joyner.

13 So the prior vendor lost the contract. I
14 don't know if it was solely because of their
15 quote/unquote, misstep, or if it was for lack
16 of effectiveness, lack of results. So I
17 couldn't speak to why they lost the contract.
18 I could only assume that part of the reason
19 they lost the contract was because they decided
20 to go down a different path on -- in marketing
21 to sporting events and things of that nature
22 that really didn't have a proven effect on
23 reducing smoking. So it was addressed through
24 the rebid of that contract.

25 CHAIRMAN BERUFF: Commissioner Joyner.

1 COMMISSIONER JOYNER: Follow-up. So --
2 thank you, Mr. Chair.

3 So that means that we do have mechanisms
4 in place to get things right when someone goes
5 astray of what is correct with respect to this
6 marketing effort?

7 CHAIRMAN BERUFF: Commissioner Nunez.

8 COMMISSIONER NUNEZ: Thank you, Chairman.

9 Technically, yes, but we -- we can only
10 imagine how much was spent on those
11 quote/unquote, missteps that could have been
12 used to actual programs that could have saved
13 lives, so smoking cessation programs or other
14 marketing initiatives that would have had the
15 intended result.

16 CHAIRMAN BERUFF: Commissioner Joyner.

17 COMMISSIONER JOYNER: Is there anything
18 preventing the Legislature from funding other
19 programs from their general revenue?

20 CHAIRMAN BERUFF: Commissioner Nunez.

21 COMMISSIONER NUNEZ: Thank you, Chairman.

22 Well, certainly you've served quite a bit
23 of time, probably longer than I have. So I
24 don't think that the Legislature is prevented
25 in appropriating dollars to other parts of the

1 program, but certainly they are -- this program
2 in particular, Tobacco Free Florida, is
3 appropriated with 15 percent of the settlement
4 claim, so --

5 CHAIRMAN BERUFF: Commissioner Joyner.

6 COMMISSIONER JOYNER: Thank you.

7 In the beginning, you alluded -- or you
8 stated that -- that we didn't need a circus at
9 the public hearing, and I -- and you weren't
10 there when we were visited by young people who
11 expressed their desire that the program
12 continue. So for the record, I didn't -- I
13 didn't perceive it to be a circus.

14 Like they were serious and direct with us
15 and felt strongly that this program should
16 continue as it is. And so I really would like
17 to know why is it that you feel that the
18 Legislature should have the right to change the
19 programs after such a big vote years ago with
20 the 15 percent in it and the progress that has
21 resulted, and I -- and I -- as a -- and the
22 progress that has resulted from the ad
23 campaign. And that is a personal statement,
24 that's really mine, because I live in a
25 neighborhood where kids see those ads and they

1 say, "Oh, my God, did you see that lung, how
2 terrible it is, and I'm never going to smoke."

3 So I would just like to know why is it
4 that you feel that we need to take that out of
5 the Constitution since the people adamantly
6 spoke in such great numbers about that
7 percentage when this initiative was passed?

8 CHAIRMAN BERUFF: Commissioner Nunez.

9 COMMISSIONER NUNEZ: Thank you, Chairman
10 Beruff.

11 And, Commissioner Joyner, I hope you
12 didn't misconstrue my statements about the
13 circus to mean the hundreds of people that came
14 to the public hearing to discuss their personal
15 views.

16 The circus I was referring to was the lies
17 and misinformation that they were distributing
18 that said I was doing this for my,
19 quote/unquote, husband that represents big
20 tobacco, and I took offense to that because it
21 is false. My husband's not even an attorney,
22 let alone an attorney for big tobacco.

23 And I felt that, again, not having been at
24 the public hearings because we were up here in
25 session, I felt that it would have been

1 appropriate at that time for those
2 organizations that you mentioned in your
3 previous question to denounce and disavow those
4 lies that were being spread.

5 So on your comment about the circus,
6 please, I don't want anyone in this body to
7 misconstrue my comment to mean that the public
8 hearing in and of itself was a circus. I fully
9 believe that that is a valuable process and
10 something that absolutely Floridians should
11 participate in.

12 I was referring more so to the lies that
13 were disseminated and the attack on my
14 character, as well as on my newfound husband
15 that I have here apparently I didn't know
16 about.

17 And if we were in the legislative process,
18 I would say to your second part of your
19 question that I've asked and answered it, but
20 I'm happy to -- to once again address in terms
21 of why, you know, I felt strongly, that I just
22 really don't believe that an arbitrary number
23 should be in the Constitution and I believe
24 that the voters should have an opportunity to
25 weigh in on whether this is an appropriate

1 expenditure that's fixed in our Constitution.

2 And I agree, you know, obviously, you
3 mentioned your community and kids that see the
4 ads, but as we've heard with other proposals,
5 technology is changing and the way that kids
6 get their information is changing. If you ask
7 my kids -- I have three, one who is 19, 17 and
8 12 almost, next month -- they will tell you
9 they don't remember the last time they saw a
10 commercial because everything's on demand and
11 they fast-forward through commercials.

12 And while I recognize, again, that
13 commercials are an important component, digital
14 is where it's at truly. I mean, anyone that's
15 involved in a campaign, whether it's initiative
16 or an individual candidate, you start to see
17 the shift from where we are at today on the ad
18 side as it relates to TV buys to digital and
19 social media. So --

20 CHAIRMAN BERUFF: Commissioner Joyner.

21 COMMISSIONER JOYNER: Thank you,
22 Commissioner Nunez.

23 I just want you to know that with respect
24 to the flyer that was disseminated, I never saw
25 it because I would have been offended also, but

1 having been a public servant in this arena, we
2 do know that people come out with all kinds of
3 outlandish things that -- in an effort to
4 promote what it is that they want to promote,
5 but I just listened to the kids.

6 I didn't -- I didn't read the information
7 that came because we were inundated and -- with
8 paper. But the most important thing to me was
9 listening to the people, and that's what struck
10 my heart most, and know that we know that you
11 were up here with your other legislative peers
12 taking care of the business of the State of
13 Florida.

14 Thank you, Mr. Chair.

15 CHAIRMAN BERUFF: Thank you. Any other
16 questions on Proposal 94?

17 Commissioner Rouson is recognized.

18 COMMISSIONER ROUSON: With all due
19 respect, Mr. Chair, I believe -- and with
20 respect to the proponent of this proposal, but
21 I am a pragmatist too, and I read the
22 temperature of the room on certain things, and
23 I think we've got a lot of proposals to get
24 through and I would like to offer calling the
25 question.

1 CHAIRMAN BERUFF: Commissioner Nunez.

2 COMMISSIONER NUNEZ: Thank you, Chairman,
3 and if I could, Commissioner Rouson, I, too,
4 hear some of the concerns. I've spoken to some
5 individuals and I know that we have spent
6 probably more time on this proposal than we
7 care to. So in deference to my colleagues and
8 as -- I would like to move to temporarily
9 postpone this proposal.

10 CHAIRMAN BERUFF: Okay. We are going to
11 skip debate, temporarily postpone this
12 proposal, so that's what we're doing, her
13 motion. A little out of my element, but I will
14 get caught up in a minute. Somebody will catch
15 me up, they'll whisper in my ear. See?

16 We are going to take up Proposal No. 9.
17 Thank you. Proposal No. 9. Commissioner
18 Timmann, would you please introduce it.

19 COMMISSIONER TIMMANN: Thank you, Mr.
20 Chairman.

21 This is my proposal to firmly establish a
22 place for the Department of Veterans Affairs in
23 our Constitution on a permanent basis; however,
24 I am asking that it be temporarily postponed to
25 tomorrow because, ironically, the Department of

1 Veterans Affairs is presently down in my neck
2 of the woods on the Treasure Coast opening a
3 new veterans' home to provide long-term care
4 for veterans. So I would like to postpone this
5 till tomorrow.

6 CHAIRMAN BERUFF: Perfect. We will
7 temporarily postpone your proposal and go to
8 Proposal 26.

9 Commissioner Keiser, would you like to
10 introduce your proposal?

11 COMMISSIONER KEISER: Thank you,
12 Mr. Chair, members of the Commission. I would
13 like to also thank my co-sponsors for this
14 proposal: Commissioner Sheriff Nocco,
15 Commissioner Gainey, and Commissioner Fred
16 Karlinsky.

17 Ladies and gentlemen, I bring to you a
18 subject that I think is of critical
19 significance, and that is as we move forward
20 prioritizing, continuing to prioritize our
21 safety.

22 I know that the nature of our world
23 changed on September 11th. On that day, we
24 remember that 3,000 people in our country lost
25 their lives in New York City, Washington, DC,

1 and Pennsylvania. Difficult reality hit as
2 well as learning that 11 of those 19 terrorists
3 had also lived in Florida and had some Florida
4 ties. However, we know that terrorists are not
5 just people from other lands looking to affect
6 our way of life.

7 Some of the worst domestic attacks have
8 been in our beautiful state and have had a
9 profound impact on all of us. Domestic
10 security and counter-terrorism is a
11 generational commitment that unfortunately --
12 fighting this is unfortunately something that
13 we need to continue to make a generational
14 commitment to.

15 Again, in January 2017, five beautiful
16 lives were lost in my hometown, Ft. Lauderdale,
17 at simply an airport, Florida International
18 Airport. And then later, as we focus on our
19 future and our children, as a resident of
20 Parkland for almost 30 years, my heart broke
21 along with all of you when 17 children's lives
22 were taken in unthinkable violence.

23 As we've had a very worthwhile discussion
24 on what belongs in the Florida Constitution, I
25 ask you to consider an effort that is doing

1 tremendous good, and that is the Office of
2 Domestic Security under FDLE. And I ask that
3 we put this office in our Florida Constitution
4 and rename it the Office of Domestic Security
5 and Counter-Terrorism.

6 Why do I ask you to do this? In my study
7 and meeting with law enforcement officials on
8 the local level -- I mentioned earlier that
9 Sheriff Nocco is one of the co-sponsors of this
10 effort -- this coordinated effort and
11 commitment in terms of intelligence gathering
12 and coordinating and making sure that from a
13 local, state, regional perspective, we are
14 constantly monitoring all those threats that
15 could potentially make us unsafe.

16 As we look at our beautiful state, we know
17 we are growing. We continue to attract people
18 from all over the world, from all over the
19 country. And in a recent article, it is
20 stated -- it was called "Top Secret America"
21 from *The Washington Post* -- said that Florida
22 is indeed beautiful, but is considered to be
23 vulnerable because the chief objective of the
24 terrorist is to spread fear and economic
25 damage. We have beautiful tourist attractions,

1 theme parks, beaches, shipping ports, and
2 military bases, and just recently we have five
3 high-threat areas, which include Ft.
4 Lauderdale, Jacksonville, Miami, Orlando, and
5 Tampa.

6 As we look into the future, which is I
7 know what we are all considering as we look at
8 the Constitution, and we look at the next 20
9 years, I can't imagine anything more important
10 than our safety. And as we struggle with the
11 question that I asked us to struggle with
12 earlier, which is what really belongs in our
13 Constitution, this ongoing, continuous
14 commitment, I hope you agree, is really one of
15 the most important things we can do by putting
16 what is in statute in the Florida Constitution
17 so that we as a state and as a public will
18 continue to know that we place this as a high
19 priority.

20 This proposal does not have a fiscal
21 impact. This is not expanding government's
22 role. This is something currently in state
23 statute. But the reason I would ask you to put
24 this in the Florida Constitution is to codify
25 this effort, to memorialize it, and to continue

1 to raise it to the level of importance that it
2 deserves. It's what we deserve.

3 Fellow Commissioners, this is my proposal,
4 and I truly look forward to any questions you
5 might have.

6 CHAIRMAN BERUFF: Questions on Proposal
7 26? I'm not seeing any ques- -- Commissioner
8 Lee.

9 COMMISSIONER LEE: Thank you, Mr.
10 Chairman.

11 Commissioner -- so I was -- I was
12 listening to your presentation, and I think I
13 said yesterday that I also think the
14 Constitution is a statement of our values. I
15 think you referred to that; is that correct?

16 COMMISSIONER KEISER: Yes, absolutely.

17 COMMISSIONER LEE: And, Mr. Chair -- and
18 you also mentioned here that I think that this
19 is already authorized under statute, so we're
20 not in effect changing any law whatsoever with
21 putting this in the Constitution, this is
22 already happening in the state?

23 CHAIRMAN BERUFF: Commissioner Keiser.

24 COMMISSIONER KEISER: Thank you,
25 Mr. Chair.

1 That is correct.

2 COMMISSIONER LEE: Okay.

3 COMMISSIONER KEISER: With the
4 exception -- with the exception that this would
5 expand the name to include the Office of
6 Counter-Terrorism.

7 CHAIRMAN BERUFF: Commissioner Lee.

8 COMMISSIONER KEISER: The name.

9 COMMISSIONER LEE: And -- and what
10 additional duties, responsibilities, would this
11 office have under this constitutional proposal
12 that it does not currently have under statute?

13 CHAIRMAN BERUFF: Commissioner Keiser.

14 COMMISSIONER KEISER: As I said, at this
15 point, it would codify what is already in
16 statute, but I have also kept in mind that it
17 is important as we look into the future for our
18 law enforcement professionals, our intelligence
19 professionals, all those that work together,
20 even on the local level, sometimes our mental
21 health experts, to be able to through the
22 Florida Legislature do what is necessary to
23 make this effort stronger, and this continues
24 to be part of the Florida Cabinet, this office
25 of FDLE.

1 COMMISSIONER LEE: So -- so, again, just
2 in summary, this is -- you perceive this to be
3 purely making a statement, the voters making
4 it -- us, and then the voters making a
5 statement that they would like this in the
6 Constitution as opposed to being done by
7 statute, but there's no functional differences
8 between how this department will operate under
9 FDLE after this passes than if -- than it does
10 today?

11 CHAIRMAN BERUFF: Commissioner Keiser.

12 COMMISSIONER KEISER: Thank you very much,
13 Mr. Chair.

14 I think this is making a statement that it
15 is a continuous priority, but I think it's also
16 providing that level of accountability that
17 if -- for the public to be able to say we voted
18 for this, this is critically important, it is
19 in the Florida Constitution. So it gives the
20 public the ability to make this effort even
21 more accountable to all of them, whether it is
22 funding or otherwise.

23 CHAIRMAN BERUFF: Further questions? Any
24 other questions on Proposal 26?

25 Seeing none, we will move on to debate.

1 Commissioner Solari is recognized.

2 COMMISSIONER SOLARI: Thank you very much,
3 Mr. Chairman.

4 A follow-up on a couple of points I
5 believe Commissioner Lee made that all powers
6 already exist through state Legislature, and
7 for me, I don't believe that this needs to be
8 in the Constitution. This is an area where --
9 and, again, as I believe Commissioner Lee
10 pointed out, the Legislature can, and in this
11 case has, and I believe will continue because
12 it's so crucial.

13 I will also note that for me, the idea of
14 security that this amendment is intended to
15 bring is already covered in the preamble of the
16 Florida Constitution where it says "ensure
17 domestic tranquility." And it may be at the
18 end of the day that I'm too much a child of the
19 '60s, though you wouldn't believe it by looking
20 at me, but at that time -- and I believe the
21 Constitution of the United States, at least in
22 some ways the Constitution of the State of
23 Florida agrees with me that when we put things
24 in the Constitution aside from the structure of
25 government, what's most important is the

1 protections the people and the minorities have
2 from too much government.

3 And I for one certainly don't want to put
4 in the Constitution the idea that the
5 government should have other more powers. To
6 me, that scares me more than the benefits that
7 this could bring. So for those reasons, I will
8 be voting against the proposal.

9 Thank you very much, Mr. Chairman.

10 CHAIRMAN BERUFF: The Chair has made a
11 mistake and we should have taken up Amendment
12 798670. So if Commissioner Nocco would
13 introduce that amendment, we would appreciate
14 it.

15 COMMISSIONER NOCCO: Thank you, sir.

16 What this amendment does -- and I want to
17 thank Commissioner Keiser, and you talk about
18 somebody who has a passion for this Bill, we've
19 spent a lot of time talking about this Bill in
20 general and working, and one of the things that
21 came up as this Bill was moving forward was
22 about security at the courthouses and
23 structures within the county that were critical
24 through domestic security.

25 And so I am very happy that through this

1 process have brought people to the table that
2 weren't there. So working with our courts, our
3 judicial, the Florida Association of Counties
4 and the Sheriffs' Association, we were able to
5 come up with language that we've all agreed
6 upon that was in legislation this year.

7 Unfortunately, it got died of messages,
8 but will be coming back next year. So I will
9 be withdrawing that language, but I want to
10 thank, again, Commissioner Keiser because her
11 leadership is what got us to where we are, and
12 already talking about making an impact in the
13 community, Commissioner Keiser has already done
14 that without even her Bill being passed. So
15 thank you.

16 CHAIRMAN BERUFF: So you're withdrawing
17 your amendment?

18 COMMISSIONER NOCCO: No, I strike -- it's
19 a strike-all, sorry. It's a strike-all -- I
20 don't know what it is. The technical terms, we
21 are striking -- we are striking the language
22 out, yes.

23 CHAIRMAN BERUFF: Okay.

24 COMMISSIONER NOCCO: A strike-all, yes.

25 CHAIRMAN BERUFF: All right. So that one

1 is gone. All right.

2 COMMISSIONER NOCCO: You know what we've
3 got to do.

4 CHAIRMAN BERUFF: Now we can go back to
5 debate.

6 COMMISSIONER NOCCO: Yeah, strike the
7 language.

8 CHAIRMAN BERUFF: Excuse me? What?

9 COMMISSIONER NOCCO: Yeah.

10 CHAIRMAN BERUFF: We have to vote on the
11 amendment.

12 COMMISSIONER NOCCO: Six of one, half
13 dozen of the other.

14 CHAIRMAN BERUFF: Okay. So all those in
15 favor of the amendment, signify by saying yay.

16 (Chorus of yea's.)

17 CHAIRMAN BERUFF: All those opposed, nay.

18 CHAIRMAN BERUFF: The yea's have it.

19 Thank you.

20 Now we can go to debate on 26. Anyone
21 want to be heard on debate on Proposal 26?

22 Commissioner Nocco.

23 COMMISSIONER NOCCO: Now I am back on
24 base.

25 So, again, I just want to reiterate --

1 Commissioner Keiser, thank you very much, but
2 it really just goes back and I just want to
3 support her because she's supported so many in
4 law enforcement, the fact that this really
5 comes back to the fundamental beliefs of who we
6 are as a people.

7 So, again, Commissioner, thank you so much
8 for your leadership on this, and I want to
9 thank you and support you on this Bill.

10 CHAIRMAN BERUFF: Any more debate on
11 Proposal 26?

12 Seeing none, Commissioner Keiser, would
13 you like to close on your proposal.

14 COMMISSIONER KEISER: Thank you very much,
15 Mr. Chair.

16 Again, I want to thank co-sponsors Fred
17 Karlinsky, Commissioner Emory Gainey, and, of
18 course, Commissioner Sheriff Nocco.

19 Ladies and gentlemen, I am a mother, I'm
20 -- like most of us, truly look at this from the
21 standpoint of as we're called to make such
22 important decisions and what really belongs in
23 the Constitution, what could be more important
24 than our safety and what could be more
25 important than a generational commitment to our

1 safety. We look up in the gallery and see a
2 lot of beautiful children, and I think that by
3 codifying this department in the Constitution,
4 we will make a long-term commitment that means
5 that the public will be able to turn and say
6 this is so important that the CRC put this in
7 the Florida Constitution so that generational
8 commitment occurs.

9 Please let me say again, we are going to
10 rename the office if you vote for this today
11 from domestic -- the Office of Domestic
12 Security to the Office of Counter-Terrorism.
13 Those functions that include intelligence
14 gathering, all of those things that have to do
15 with the opportunities and the challenges and
16 the investments that we need to make with FDLE,
17 the local, state and regional partners, need to
18 continue.

19 It doesn't mean we have a perfect system.
20 It means we need to continue to work diligently
21 to achieve the safety for our citizens. It
22 ensures collaboration and communication and, of
23 course, always values local law enforcement and
24 their efforts.

25 I ask for your support for Proposal 26 by

1 your favorable vote, and thank you so much for
2 your consideration.

3 CHAIRMAN BERUFF: Thank you.

4 Secretary, please open the board for a
5 vote.

6 All Commissioners vote.

7 Please close the board and announce the
8 tally.

9 Motion is adopted and proposal committed
10 to Style and Drafting Committee. Thank you.

11 We will now take up 37. Commissioner
12 Stemberger.

13 COMMISSIONER STEMBERGER: Thank you, Mr.
14 Chairman. That happened a little bit quicker
15 than I thought it was going to.

16 CHAIRMAN BERUFF: I'm good.

17 COMMISSIONER STEMBERGER: So this is
18 Proposal 37. It relates to the issue of ethics
19 in government, specifically the naming of
20 public projects after elected officials.

21 I believe that this is an appropriate
22 matter for the Constitution because of the
23 specific fact, as I talked about yesterday,
24 that it limits the power of government. And
25 that is the differentiation. In a

1 Constitution, the law rules the rulers. In a
2 pure democracy, the law, whether it's
3 representative democracy or pure democracy,
4 rules the people.

5 And so here we're -- we're at -- we're
6 placing a limitation on government. Could the
7 Legislature do this? Yes, but it can't bind
8 the hands of future Legislatures. So let me be
9 clear on that.

10 What the proposal does is basically two
11 things. It prohibits any public project using
12 public funds from being named after an elected
13 official sitting in the legislative body making
14 the decision. And then secondly, it requires
15 that whatever motion or procedure to name the
16 project be done so as a stand-alone Bill and
17 not be done as a train or some kind of a larger
18 Bill where it is not as recognized.

19 It would apply to City Councils, it would
20 apply to County Commissions, and it would apply
21 to the Florida Legislature. It would apply to
22 the naming of state buildings, roads, bridges,
23 parks, a recreational complex, publicly-funded
24 programs. And I think -- Commissioner Gaetz, I
25 think you said you had some kind of a sewer or

1 something named after you. What was it? I
2 can't remember. Anything that's taxpayers'
3 dollars.

4 CHAIRMAN BERUFF: That's out of order.

5 COMMISSIONER STEMBERGER: Thank you,
6 Mr. Chairman.

7 Proposal 37 would not apply to private
8 organizations, NGOs, non-governmental entities,
9 or nonprofits. It would not apply to any state
10 or private schools, colleges, universities,
11 University Board of Trustees. It would also
12 not apply to the naming of any projects funded
13 by Congress using federal funds.

14 I've reviewed other states, and there are
15 not many states that have -- most of the
16 restrictions come as a result of private
17 foundations and universities and gifts that are
18 being made. I won't go through all of that,
19 but I'm not aware of any local government
20 restriction on this, and Congress has attempted
21 this, but has not done it.

22 This would be in a sense something that is
23 unique and something that is -- Florida would
24 be leading the way in in much the same way as
25 we lead with government in the sunshine.

1 I do know that according to Senate Bill
2 368, in 2017, there were 46 roads and bridges
3 that were named after various individuals in
4 Florida. I'm not aware that any of them were
5 named after elected officials, but they were
6 named after different people.

7 The problem with this is that when a body
8 is voting on trying to honor someone, and that
9 person is in the body, there is obviously quite
10 a bit of pressure and it comes to bear in
11 naming something after a person in leadership
12 or a person that's been there a long time and
13 you are sitting there having to determine
14 whether this person is worthy of being honored.
15 People also can be, after they're out of
16 office, engaged in scandal or be disgraced
17 publicly. This has happened multiple times in
18 the past where folks have named things after
19 people in various states and they had to pull
20 those names back, the appearance of propriety
21 and inside dealing or vote trading, the
22 impropriety of a person being honored and
23 sitting on the voting body.

24 See, I think that -- I am reminded of a
25 proverb in the Old Testament, and it very

1 simply says this: "Let another man praise
2 you." And I think that the public's stomach
3 turns when we name projects after ourself as
4 public officials.

5 I think that there's many good examples of
6 this. There's a committee room named after
7 former President Jennings. It was done after
8 she was out of the Senate. It was done
9 independent as a stand-alone way to honor her.
10 That's the right way to do it.

11 When we name projects, be they
12 scholarships or whatever it is, after members
13 who are in leadership or not in leadership, I
14 think it raises ethical issues. It forces the
15 members of that legislative body to make a
16 decision as to whether or not they are going to
17 oppose leadership or do something that
18 leadership wants or have to embarrass a fellow
19 member of theirs.

20 Now, during the committee hearings,
21 Commissioner Nunez and Commissioner Heuchan
22 actually said "I want them dead, they have to
23 be dead before they are honored," and I said,
24 "Okay, well, that's fine, but then you are
25 really not honoring that person, then

1 everything becomes a memorial," right? I think
2 they'd give honor where honor is due. So I
3 think that this is a good practice. I think it
4 just needs to be done in a way that is above
5 reproach, and I think there are really no
6 examples of this.

7 I know that in the state of West Virginia,
8 there are a number of public places and things
9 named after Senator Robert Byrd, the
10 ex-Klansman who pork barreled many of these
11 projects himself. John Stossel on the 20/20
12 show discovered that there are more than 30
13 buildings, a bridge, and even a telescope named
14 after Robert Byrd.

15 In Jacksonville, Florida, \$9,000 of bond
16 money was spent to build a tower and a pillar
17 of a councilwoman with her face literally on
18 the pillar, etched into it, sculpted in a city
19 park in her district. This proposal would
20 prohibit that type of self-honoring.

21 The Lincoln Memorial of interest did not
22 appear until more than 50 years after Lincoln's
23 death; the Washington Monument named 89 years
24 after Washington's death.

25 I think this strikes a good balance

1 between a wild, wild west, which is what we
2 have now, no regulations or very few
3 regulations -- I think the House does have some
4 regulations. Maybe Commissioner Nunez can
5 inform me on that. She followed up with me on
6 a specific regulation she found. And the other
7 extreme of just banning this completely unless
8 someone has passed away.

9 Again, there is a committee room in the
10 Senate after -- to honor former Senate King --
11 Senator King, also our own Arthenia Joyner, a
12 Commissioner here, was honored, a library was
13 named after her. Again, she was not a part of
14 the City Commission. It was done as a separate
15 entity. That's the kind of way that we should
16 be honoring people.

17 Four possible objections to this proposal
18 I want to address, and I then I will open the
19 floor for questions, Mr. Chairman.

20 Elected officials should have the freedom
21 to honor their colleagues by naming certain
22 public projects after them, and I would agree
23 with that, the proposal agrees with that. It
24 just sets forth ways to do that that's ethical
25 and does not stink, if you will, in the eyes of

1 the public and seem to be suspect.

2 This proposal, it could be argued, limits
3 the free speeches of -- free speech rights of
4 government. That was one of the objections
5 that was made. And it does limit government
6 speech in that way if you want to look at that,
7 but it is a reasonable restriction. There's no
8 absolute right to free speech. There's a time,
9 place, manner restriction on all speech of
10 every type, and so that's reasonable.

11 No other state has done this, although
12 many have tried, and I think that's an
13 interesting point, but it's all the more reason
14 why we could lead the way, as we do with many
15 other ethical issues that have been talked
16 about in this chamber, including public
17 records.

18 And then, finally, this is an
19 inappropriate issue for the Constitution. I
20 would grant the fact that the Legislature could
21 do this. Whether they would do this and also
22 apply it to local government as well is another
23 matter.

24 CHAIRMAN BERUFF: Commissioner, if you
25 Could start wrapping up.

1 COMMISSIONER STEMBERGER: Thank you.

2 CHAIRMAN BERUFF: Commissioner Smith is
3 recognized on a question.

4 COMMISSIONER SMITH: Yes, sir.

5 Commissioner, the last sentence on this is
6 "may not contain provisions of any other
7 subject." Could you give us examples, because
8 that's a little troubling to see? If there's a
9 transportation Bill that deals with bridges and
10 roads and things, and then there may be some
11 naming in that, would that be a violation that
12 the name is separate from, I guess, building a
13 road?

14 CHAIRMAN BERUFF: Commissioner Stemberger.

15 COMMISSIONER STEMBERGER: That's a very
16 good question. I believe it would be. This is
17 intended to be a stand-alone honoring of an
18 individual so that it's clear and it's not tied
19 to any other project that would have to be
20 passed for some other reason and would just
21 have to slip in, because it is a scholarship
22 that has to happen, because it is a road that
23 has to be built, or something of that nature.

24 CHAIRMAN BERUFF: Commissioner Smith.

25 COMMISSIONER SMITH: Are you aware that

1 most of the time when those Bills are done that
2 they are put in as amendments, that the names
3 rarely -- and I can't remember any that were in
4 the original Bill. So the unique discussion
5 that you -- that you're looking for, are you --
6 could you give me examples where it was in the
7 original Bill?

8 Because every time I remembered naming
9 something, it was a stand-alone amendment that
10 went into the entire package.

11 CHAIRMAN BERUFF: Commissioner Stemberger.

12 COMMISSIONER STEMBERGER: I don't have an
13 example for you.

14 CHAIRMAN BERUFF: Commissioner Smith.

15 COMMISSIONER SMITH: You gave -- so
16 speaking of examples, you gave an example --
17 gave examples of Senator Byrd, I guess, in West
18 Virginia and you gave one example,
19 Jacksonville. Was that a -- was that done with
20 someone sitting on the Jacksonville Commission
21 and it was a park named after that person while
22 they were still sitting on the Commission?

23 COMMISSIONER STEMBERGER: That is correct.

24 COMMISSIONER SMITH: Could you tell me
25 when that was? I want to make sure I --

1 CHAIRMAN BERUFF: Commissioner Stemberger.

2 COMMISSIONER STEMBERGER: I'll have to get
3 that documentation.

4 CHAIRMAN BERUFF: Commissioner Smith.

5 COMMISSIONER SMITH: Lastly, one of the
6 reasons that you gave for this, you said, you
7 know, sometimes people make mistakes after or
8 do things after they leave office, but this
9 would not exactly fix that, would it? Because
10 if a person has vacated office and they get it
11 named after them, then they go and do something
12 wrong, this wouldn't fix that, would it?

13 COMMISSIONER STEMBERGER: That is correct.

14 CHAIRMAN BERUFF: Thank you. Other
15 questions?

16 Commissioner Diaz is recognized.

17 COMMISSIONER DIAZ: Thank you, Mr. Chair.

18 Can this already be accomplished by a
19 statute?

20 COMMISSIONER STEMBERGER: It could, yes,
21 it could.

22 COMMISSIONER DIAZ: And isn't it already
23 partially covered in statute?

24 COMMISSIONER STEMBERGER: You --

25 CHAIRMAN BERUFF: Commissioner Stemberger.

1 COMMISSIONER STEMBERGER: -- tell me.

2 CHAIRMAN BERUFF: Diaz.

3 COMMISSIONER DIAZ: Yeah, Florida
4 Statutes.

5 CHAIRMAN BERUFF: You all got to slow down
6 a little bit.

7 COMMISSIONER DIAZ: Sorry.

8 Florida Statute 267.062, says that "No
9 state building, road, bridge, park, or other
10 similar structure shall be named for any living
11 person."

12 CHAIRMAN BERUFF: Commissioner Stemberger.

13 COMMISSIONER STEMBERGER: Does this apply
14 to county and city as well?

15 CHAIRMAN BERUFF: Commissioner Diaz.

16 COMMISSIONER DIAZ: Only if it is a state
17 building, park --

18 CHAIRMAN BERUFF: Commissioner Stemberger.

19 COMMISSIONER DIAZ: -- bridge or road.

20 CHAIRMAN BERUFF: Commissioner Stemberger.

21 COMMISSIONER STEMBERGER: Sure, thank you
22 for that. That did not show up in the
23 committee analysis, and I specifically asked,
24 but this proposal would apply to all branches
25 of government, county and city as well.

1 CHAIRMAN BERUFF: Commissioner Diaz.

2 COMMISSIONER DIAZ: That was it. Thank
3 you.

4 CHAIRMAN BERUFF: Commissioner Plymale is
5 recognized.

6 COMMISSIONER PLYMALE: Thank you, Chairman
7 Beruff.

8 Could you tell me, Commissioner
9 Stemberger, is this a problem that you
10 anticipate might happen, other than the lady in
11 Jacksonville who's on the tower? I wouldn't
12 want to do that, but, I mean, is this something
13 that's happening everywhere and we're just
14 unaware of it, or are you anticipating -- of
15 course, you don't anticipate Senator Byrd
16 moving here. And I'm from West Virginia, I
17 know about all of those things.

18 CHAIRMAN BERUFF: Commissioner Stemberger.

19 COMMISSIONER STEMBERGER: You could very
20 easily find a very, very long list of this
21 occurring right here in this chamber. I won't
22 even -- I won't do that simply because I don't
23 want to call out elected officials that are
24 current or past that we've named things after.
25 So I'm not going to answer the question, but

1 I'll answer it for you privately. It can
2 certainly be found, it is public information,
3 and it happens all of the time.

4 COMMISSIONER PLYMALE: But it happens all
5 the time that --

6 CHAIRMAN BERUFF: Commissioner Plymale.

7 COMMISSIONER PLYMALE: Oh, I'm sorry.

8 CHAIRMAN BERUFF: You're okay.

9 COMMISSIONER PLYMALE: So it's a very
10 common thing for a person who's sitting in an
11 office across the spectrum to have something
12 named after themselves while they're in office?

13 CHAIRMAN BERUFF: Commissioner Stemberger.

14 COMMISSIONER STEMBERGER: City, county,
15 and state, yes.

16 COMMISSIONER PLYMALE: Okay, I'm sorry,
17 just --

18 CHAIRMAN BERUFF: Commissioner Plymale.

19 COMMISSIONER PLYMALE: -- never noticed.

20 CHAIRMAN BERUFF: Commissioner Gaetz is
21 recognized.

22 COMMISSIONER GAETZ: Thank you very much,
23 Mr. Chairman.

24 I notice in the -- in line 20 of your
25 proposal, Commissioner Stemberger, you state

1 that there can be no naming until after the
2 official has vacated public office.

3 Let me give you an example that I --
4 perhaps you could -- you could -- that you
5 could help illustrate. In this building, we
6 have -- the House of Representatives has named
7 Webster Hall. It is a committee meeting
8 room -- a committee room that is in the Knott
9 Building, and it is named after Speaker Dan
10 Webster. It was named for Speaker Webster
11 after he left the Florida Legislature.

12 But then he went back home to Orlando, and
13 a couple of years later, his friends and
14 neighbors in Orlando elected him to the United
15 States Congress where he serves today. So is
16 it your intent that Webster -- that the sign
17 "Webster Hall" should be taken down in the
18 Knott Building because Dan Webster has not
19 vacated public office, he simply vacated the
20 office that he held at the time that he earned
21 the affirmation and respect and honor of the
22 House of Representatives?

23 CHAIRMAN BERUFF: Commissioner Stemberger.

24 COMMISSIONER STEMBERGER: Yes, and before
25 I respond to that question, this is a picture

1 of the Jacksonville effigy of the woman's face.
2 Her name is Pat Lockett-Felder. I don't know
3 her. In 2005, in Jackson Memorial for
4 Commissioner Smith's question, and, yes, I
5 think that that's an appropriate thing. No,
6 this proposal would not in any way prohibit
7 this body or other bodies from recognizing
8 someone after they have left the legislative
9 body. The intent is to avoid the impropriety
10 of making that vote while my fellow colleague
11 is sitting with me in the room.

12 CHAIRMAN BERUFF: Commissioner Gaetz.

13 COMMISSIONER GAETZ: Thank you,
14 Mr. Chairman.

15 This truly may be something that
16 appropriately would go to Style and Drafting --
17 Commissioner Heuchan, heads up -- because a
18 plain reading of the language that you have
19 states "after the official has vacated public
20 office," not vacated that public office, not
21 vacated the public office that he held at that
22 time, but "vacated public office."

23 As you pointed out, there will be on
24 Monday a library named after Leader Joyner.
25 Appropriately so. She has vacated one public

1 office, but it is very possible that her
2 friends and neighbors throughout Florida may
3 ask her to seek another public office and she
4 may be elected to Congress, she may be elected
5 to a statewide office.

6 Would you agree that the language now is
7 troublesome in that it would appear -- the
8 plain reading would appear to prevent an
9 individual who has returned to public office
10 from -- from having a library or the Bob Graham
11 Bridge or the Dan Webster Hall named after
12 them, and that this might be a matter that the
13 -- if you would agree, that the Style and
14 Drafting Committee might need to deburr?

15 CHAIRMAN BERUFF: Commissioner Stemberger.

16 COMMISSIONER STEMBERGER: Commissioner
17 Gaetz, I believe you have found a strategic
18 weakness in my proposal's language.

19 COMMISSIONER GAETZ: I didn't mean to.

20 CHAIRMAN BERUFF: Commis- --

21 COMMISSIONER STEMBERGER: Yes, I think
22 that -- I think that would -- that was my
23 intention, I guess -- is your reading -- I
24 think you're correct in your reading, that it
25 would -- as long as that per- -- it meant to

1 read a member of the body that was making that.
2 So that would hopefully be something that Style
3 and Drafting could look at.

4 CHAIRMAN BERUFF: Commissioner Gaetz.

5 COMMISSIONER GAETZ: Thank you, sir.

6 CHAIRMAN BERUFF: Further questions on
7 Proposal 37?

8 Commissioner Rouson is recognized.

9 COMMISSIONER ROUSON: Thank you very much,
10 Mr. Chair.

11 And, Commissioner, the City of St.
12 Petersburg has an ordinance that prohibits it
13 from naming a public building after an
14 individual while they are still living, unless
15 a majority of council -- City Council waives
16 that. And that was recently invoked when
17 Thomas Jackson, a man who started working for
18 the City of St. Pete at 15 years old and still
19 works for the City of St. Pete and is the
20 longest serving employee of the city -- a
21 majority of council waived that and renamed the
22 Wildwood Community Center after Thomas Jackson,
23 and he continues to be employed by the city.
24 Would this prohibit the city from doing that?

25 COMMISSIONER STEMBERGER: No, it would

1 not.

2 CHAIRMAN BERUFF: Commissioner Stemberger.

3 COMMISSIONER STEMBERGER: My apologies,

4 Mr. Chairman.

5 No, it would not.

6 CHAIRMAN BERUFF: Further questions on

7 Proposal 37?

8 Commissioner Joyner is recognized.

9 COMMISSIONER JOYNER: Thank you,

10 Mr. Chair.

11 Commissioner Stemberger, you know, we
12 talked about what should go in the Florida
13 Constitution. This is -- this is the governing
14 document for this state. And we talked about
15 fundamental values that impact our lives. And
16 I am unable to ascertain in my thinking that
17 this proposal rises to the level that I would
18 want in the Constitution.

19 And so I would like a little more -- what
20 is the impetus for your wanting to put this in
21 the Constitution, aside from the Byrd and
22 Jacksonville examples that you gave? Because
23 we -- you're asking people to vote to not allow
24 naming of buildings, facility, tracts of land,
25 are programs administered by the governmental

1 entity after an elected state, a local
2 official, until the official has vacated public
3 office.

4 And just, i.e., while in the Senate, there
5 was a Senator who for years pursued a course
6 that ended up -- he pursued a line of trying to
7 provide for a demographic that had been
8 historically undervalued, I would say, or --
9 and that was the developmentally disabled. And
10 for years and years and years, I think he
11 championed that for 10, 12 years or more.

12 And there was a Bill, as Senator Smith
13 said, that passed that -- that passed giving
14 greater rights to the developmentally disabled,
15 and the Senate decided that we should name this
16 for that young man, he pursued this for years,
17 this is landmark, now those kids can get an
18 education all the way through college, those
19 developmentally dis- -- those developmentally
20 challenged kids.

21 This proposal would take away the right of
22 the legislative body to put that person's name
23 on that program. And so I -- you've got to
24 tell me more about why you think this rises to
25 that level to take away the right of units of

1 government to make a decision as they've done
2 in St. Petersburg, and perhaps some other
3 municipalities have something about this, and
4 why -- why it deserves to be in our governing
5 document.

6 CHAIRMAN BERUFF: Commissioner Stemberger.

7 COMMISSIONER STEMBERGER: Thank you.

8 Commissioner Joyner, that's an outstanding
9 question.

10 Members of this Commission, every year the
11 polling on trust and legitimacy of governmental
12 officials goes down. Now, it is a roller
13 coaster, but over time, the roller coaster is a
14 downward spiral. This is something small, but
15 something significant in the public perception
16 of how things are done.

17 I think it can go a long way toward
18 letting the public see that we are putting
19 limitations on government to gratuitously honor
20 themselves when they're in the body that's
21 voting on it.

22 If we are going to honor somebody, let's
23 honor them and do it right as a stand-alone
24 Bill when they've left the body; otherwise, it
25 really feels unethical and the public thinks it

1 stinks. Talk to somebody in a bar, talk to a
2 neighbor, ask them how they feel about this
3 issue. That's why I think it is important.

4 CHAIRMAN BERUFF: Commissioner Joyner is
5 recognized.

6 COMMISSIONER JOYNER: I attended all of
7 the public hearings, with the exception of one.
8 I don't recall this ever being mentioned or
9 talked about or brought to our attention at any
10 of those hearings. Would you please share with
11 me if it occurred? And you said that in a bar
12 or wherever you meet people, it comes up, but
13 anybody show up and say "This is important to
14 us and it should be in the Florida
15 Constitution?" And maybe that one hearing I
16 missed, that's when it came up, but I didn't
17 hear it.

18 CHAIRMAN BERUFF: Commissioner Stemberger.

19 COMMISSIONER STEMBERGER: I don't think
20 there was a question.

21 COMMISSIONER JOYNER: I --

22 CHAIRMAN BERUFF: Commissioner Joyner.

23 COMMISSIONER JOYNER: Yes.

24 To the best of your recollection,
25 Commissioner Stemberger, did anyone testify at

1 any of our public hearings as to the necessity
2 of putting this proposal in the Florida
3 Constitution?

4 CHAIRMAN BERUFF: Commissioner Stemberger.

5 COMMISSIONER STEMBERGER: To the best of
6 my recollection, no one testified for or
7 against this proposal.

8 CHAIRMAN BERUFF: Other questions for
9 Proposal 37?

10 Commissioner Coxe.

11 COMMISSIONER COXE: Commissioner
12 Stemberger, had you given any thought to
13 providing that it would only apply if public
14 funds are used? And I will tell you why I ask
15 the question.

16 We had in Jacksonville somebody who many
17 people know served probably 15 or 18 years as
18 State Attorney, was the best we ever had, then
19 became Mayor for another eight years, name was
20 Ed Austin. There was a great effort to name
21 part of the courthouse after him after he left
22 and went over to City Hall to be Mayor. And it
23 wasn't done at the time, but I mention that
24 because the Jacksonville Chamber of Commerce
25 would have done it if the public were forbidden

1 to do it with public funds. So you still would
2 have had a public building named probably by a
3 private entity, if I read your language
4 correctly.

5 What would be the prohibition against the
6 Chamber of Commerce naming a building if the
7 city agreed to it but didn't expend any funds?
8 Would that be all right? Because it's not the
9 city naming it.

10 COMMISSIONER STEMBERGER: I believe it
11 would be --

12 CHAIRMAN BERUFF: Commissioner Stemberger.

13 COMMISSIONER STEMBERGER: My apologies,
14 Mr. Chairman.

15 I believe that would be okay, Mr. Coxe.

16 COMMISSIONER COXE: Excuse me?

17 COMMISSIONER STEMBERGER: Under the
18 language of this proposal, I believe that would
19 be appropriate and --

20 CHAIRMAN BERUFF: Commissioner Coxe.

21 COMMISSIONER STEMBERGER: -- not -- would
22 not be prohibited.

23 COMMISSIONER COXE: And the main reason I
24 asked the first question was because the Pat
25 Lockett-Felder event in Jacksonville was

1 embarrassing to the whole city, it really was.
2 But her own council colleagues, of which there
3 were 18 more, wouldn't do anything about it.
4 So that's why I asked if maybe if this just
5 applied to the use of public funds, which she
6 did to accomplish that.

7 CHAIRMAN BERUFF: Commissioner Stemberger.

8 COMMISSIONER STEMBERGER: No pending
9 question, Mr. Chairman.

10 CHAIRMAN BERUFF: Further questions on
11 Proposal 37?

12 Not seeing any, we will move into debate
13 on Proposal 37. I didn't make any mistakes,
14 there's no amendments. Proposal 37 on debate.
15 Commissioner Smith is recognized.

16 COMMISSIONER SMITH: Thank you, Mr. Chair.

17 This is a solution looking for a problem.
18 I know we've said that, but it is many times in
19 this -- in this very room, somebody will bring
20 a local, personal beef and try to make it a
21 state law. This seems to be a local, personal
22 beef making it to the Constitution. We have
23 heard of one instance.

24 And I admit, if you are an elected
25 official and I looked up, she wasn't even

1 running for reelection, so to get a park or
2 something named after you, you're still in
3 office, if I was her opponent, I'd be kind of
4 ticked off, so -- but I've -- I sponsored a
5 piece of legislation here that I -- that didn't
6 make it through, but I really believe in those
7 two words, and that is "home rule." That's
8 home rule. This not only tramples on
9 legislative rule -- I mean, you are telling the
10 Legislature what to do, when they can do it in
11 their own rules, and they have it in statute,
12 but you're telling local municipalities, you're
13 telling local County Commissions, you're
14 telling every local entity that have the
15 ability to do this, but they have the ability
16 to not do it if they don't want.

17 If Jacksonville wants to name every park
18 after every Commissioner, fine, that's
19 Jacksonville's problem. Let Jacksonville do
20 that, that's their problem. But don't tell
21 Riviera Beach that they have to do this, don't
22 tell Ft. Lauderdale that they have to do this,
23 don't tell Niceville that they have to do this.

24 We're here to discuss big issues. We're
25 here to discuss big things that should be --

1 that should go in our Constitution that deal
2 with really rights of people, rights of people,
3 and now we are spending an hour on something
4 that's -- clearly entities should govern for
5 themselves.

6 If Opa Locka wants to do something crazy
7 and name something after somebody, you know,
8 God bless them, but we shouldn't be putting in
9 our Constitution what every city, what every
10 county, what every legislative body has to do
11 when it comes to something about naming rights.
12 That's just -- I mean -- at some point, we have
13 to stop putting stuff in our Constitution, and
14 at this -- and on this one, I hope that -- I
15 would add that 66 percent requirement on this
16 one, you know, if we could, but let's vote
17 against it.

18 CHAIRMAN BERUFF: Debate on 37?

19 Commissioner Stargel is recognized.

20 COMMISSIONER STARGEL: Thank you, and it's
21 been a number of years since I've had to debate
22 after Commissioner Smith back when I was in the
23 House. And by the way, my wife told me what
24 you tweeted about me yesterday. He said he
25 would rather serve with her.

1 So, anyway, I looked at all of these
2 proposals, I've been following them as they go
3 through, and this is one that initially I
4 thought, okay, why does it belong there. But
5 I'm actually -- as I reviewed this -- and
6 Commissioner Stemberger didn't bring this up,
7 but there is a provision in here that makes
8 this belong in the Constitution, and that is
9 the provision that this can only be passed in a
10 separate Bill for that purpose only.

11 The Legislature can't bind future
12 legislators to say in the future, you can't do
13 that. And the reason I support this is because
14 the public trust.

15 Now, for those of you that follow the
16 legislative process, you know that things don't
17 happen always -- a Bill gets filed just like
18 this process, and that it doesn't get amended
19 along the way. And what ends up happening is
20 at the end of the day, when somebody wants
21 something, they stick it into a Bill.

22 Now, we have already in the Constitution a
23 similar provision when it deals with access to
24 public records and meetings. So those of you
25 who follow the process know that to make an

1 exemption for public records, you have to have
2 a separate Bill for that purpose only. And
3 what that does is it tells every legislator,
4 stand up and take notice, somebody is doing
5 something that our Constitution has flagged as
6 important because it's an issue of public
7 trust. And because it's an issue of public
8 trust, we want to make sure that every
9 legislator isn't going back and saying, yeah, I
10 know I voted for this program that was named
11 after my fellow senator, but there was other
12 good things in that Bill.

13 This Bill will say that Dan Webster did a
14 good job and we named something after him. I
15 use -- Pam Bondi is sitting here. Ten years
16 from now, somebody wants to come and honor her.
17 It will be in a separate Bill for that purpose
18 only, and then everyone can go back and defend
19 that, but they won't have to use an excuse as
20 to why they did it.

21 And then the second point is that there
22 are a lot of people out there who just don't
23 trust government at all any more, and they see
24 people as being up here to honor themselves,
25 and I think Commissioner Stemberger did make

1 that point going all the way back to the Bible
2 where it talks about letting others honor you.
3 And I think there's nothing wrong with honoring
4 someone.

5 I think Commissioner Nunez or someone said
6 that it should be when they are dead, and maybe
7 that's something for the governing body to
8 consider. But at a minimum, I support this
9 proposal that says while you're sitting in
10 office, anything that you do to honor yourself,
11 honor a former colleague, or someone that
12 served with you needs to be in a separate Bill
13 for that purpose only, and it needs to be
14 highlighted because I think it's going to
15 further the public trust.

16 Thank you.

17 CHAIRMAN BERUFF: Commissioner Lester is
18 recognized.

19 COMMISSIONER LESTER: Thank you,
20 Mr. Chairman. I wish to speak very briefly in
21 support of the program.

22 We've talked a lot, Senator Gaetz has
23 brought up -- I'm sorry, Commissioner Gaetz has
24 several times brought up where Florida was in
25 the public perception in terms of ethics a few

1 year ago and where we aspired to get to, and
2 some of the things that he has proposed have
3 led us in that direction. And then a number of
4 folks who have spoken about how -- the low
5 regard in which elected officials are held, and
6 Commissioner Stargel just spoke to that, and
7 that's undoubtedly true.

8 And so you hear these conversations, not
9 just in Florida, but you can be in Ohio or
10 Alabama or anywhere else and you hear people
11 saying, gosh, I hate it, they always name these
12 things after politicians, that doesn't seem
13 right, it is taxpayer dollars and yet there
14 goes another politician naming something after
15 himself. You hear those kinds of cynical
16 remarks.

17 Well, if our Constitution is where we try
18 to sometimes make a statement about who we are,
19 and if we want Florida to really stand out in
20 terms of the ethical standards, the way the
21 Sunshine Law makes us somewhat special and
22 somewhat unique, I think this is another
23 opportunity and a very kind of simple way to
24 make that statement so that when someone is
25 sitting around and going, yes, I just hate it,

1 they named another building after a politician,
2 a person from Florida could say, you know, we
3 don't do that in Florida. I mean, I think
4 that's another way that Florida can stand out
5 to say, you know, in Florida, they don't allow
6 that, they don't do that any more.

7 So I stand in support. I think it is a
8 great idea. I think it helps us make a
9 statement about where we want to be perceived
10 as a state in terms of ethical standards.

11 Thank you, Mr. Chairman.

12 CHAIRMAN BERUFF: Debate? Any further
13 debate?

14 Commissioner Solari is recognized.

15 COMMISSIONER SOLARI: Thank you very much,
16 Mr. Chairman.

17 With all due respect, I agree with
18 Commissioner Smith on this issue. This is a
19 problem looking for a solution, but I believe
20 it's actually much worse than that.

21 And I, with all due respect, disagree with
22 Commissioner Lester. I believe -- again, I
23 alluded to it yesterday, but you can't
24 legislate morality. Adherence to a law is not
25 morality, it's not doing the right thing, it's

1 staying out of jail. And I truly believe that
2 if we need this type of thing in our
3 Constitution, we have already failed. So as a
4 constitutional issue, I believe that.

5 But more importantly, who cares if
6 somebody names something after that? As an
7 individual citizen, I will learn more about
8 that people and anybody who voted that -- for
9 that, and that information will be more
10 valuable to me as a voter in the next election
11 than any cost that that naming of that building
12 could possibly have.

13 So, again, I like the idea that
14 legislators can make dumb mistakes to tell me
15 about them, but it seems to me that the more of
16 this micromanagement of ethical behavior we do,
17 the smarter the crooks get, and all that
18 happens to the good people is they waste more
19 and more time trying to make sure that they
20 have the documentation to prove that they
21 didn't do what they wouldn't have done anyway.

22 Thank you.

23 CHAIRMAN BERUFF: Further debate?

24 Commissioner Lee, you're recognized.

25 COMMISSIONER LEE: Well, thank you,

1 Mr. Chair. I usually try to wait late to see
2 if there's something that I feel like needs to
3 be said. I know we intended to break for
4 lunch.

5 But I just think that there are limits to
6 any philosophical argument. And I have
7 tremendous respect for Commissioner Solari. I
8 don't think there's a tougher job in America
9 than serving in local government. You're on
10 the front lines, you can't -- you can't run
11 from the people that you serve, and that there
12 should be tremendous deference given to local
13 governments and their decision-making
14 authority.

15 I just rise in support of this on one
16 principle. I don't really see where it does
17 any harm. This -- this concept establishes a
18 value in our state, a guiding principle that we
19 believe that you should wait to name these
20 monuments to your public service after yourself
21 and -- or to have your colleagues do the same.

22 I don't see any real damage that is done
23 from that. I like the idea myself. I've seen
24 how some of these naming things get done, and
25 the quid pro quos that take place that result

1 in, you know, Bills passing sometimes don't
2 always result in the best naming of things.
3 And I just feel like we have had prior to this
4 proposal, other proposals. Commissioner Keiser
5 just adopted a proposal that honestly did
6 nothing but send a message that we believe that
7 placing an office of terrorism and
8 counter-terrorism into the Constitution is
9 sufficiently important that we want to make
10 that statement. And that's all it did was make
11 that statement.

12 And so I think this is an opportunity for
13 us to make another statement, that we believe
14 that government should wait in naming
15 facilities after people, and I am going to
16 support it.

17 Thank you, Mr. Chair.

18 CHAIRMAN BERUFF: Further debate?

19 Commissioner Levesque.

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

22 I wasn't planning on speaking on this
23 proposal, but because I've been one of those
24 very strict voters on not putting things into
25 the Constitution that shouldn't be there, I

1 wanted to clarify why I am going to be
2 supporting this proposal, and it's because
3 Commissioner Stemberger has rightly said that
4 the purpose of putting things into the
5 Constitution is to place limits that are
6 appropriate on the governing bodies, and
7 because Commissioner Stargel has also said that
8 what this does is it effectively puts a process
9 in place so the Legislature or these
10 Commissions have to vote in a separate
11 proposal, and because it puts what Commissioner
12 Lee has said, it restores some public trust, it
13 is sending a statement about what we believe.

14 And to Commissioner Smith and Commissioner
15 Plymale who have asked what's the problem here,
16 let me -- if you follow the legislative
17 process, it is disgusting. It is disgusting
18 when you -- when you see the things that are
19 named after each other. I'll name this program
20 after you, this research project after you,
21 this building after you. It really is
22 inappropriate.

23 When I came up here in 1997 as a very --
24 I'm not going to tell you how old I was, but
25 naive younger person, you know, I thought it

1 was really neat when I would then travel around
2 the state and I would be driving and I could
3 think of, oh, I know this is Representative
4 So-and-So's district, this is Senator
5 So-and-So's district, and I thought it was neat
6 when I saw buildings and other things that were
7 named after people that I knew, that I had
8 watched, that I had seen in the legislative
9 process.

10 But after more and more years in this
11 process, I now understand the reality of those
12 namings. When I drive my children somewhere
13 and I see So-and-So's sports complex, that just
14 meant he was really good at getting \$250,000 at
15 a line item in the budget for something that
16 may or may not have even been needed back home.

17 And it -- so what I think, and I ask for
18 your support on this proposal, it is absolutely
19 appropriate to be in the Constitution. It
20 absolutely is curing and solving a problem that
21 occurs in the legislative body and in County
22 Commissions when peers vote for things and they
23 do it in a way that there is pressure to vote
24 for these things because you know that your
25 peer can vote on your issues in a different

1 way, and so you feel obligated to honor your
2 peer in ways that we -- really, we are
3 destroying public trust when that happens.

4 Can things be named after elected
5 officials if this -- the voters were to support
6 this? Absolutely. They just have to be done
7 after they've left public office, and they have
8 to be done as a separate proposal. And I am
9 wholeheartedly in support of this good
10 proposal.

11 CHAIRMAN BERUFF: Further debate on 37?

12 Seeing none, the secretary will open the
13 board. A vote -- I'm sorry, I forgot.
14 Mr. Stemberger, you get to close, don't you? I
15 was going to close for you.

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

18 Very briefly, if you know anything about
19 me, you will never see me have anyone say that
20 you cannot legislate morality in my presence
21 without me responding to that. So with all due
22 respect to Commissioner Solari, every piece of
23 law, every legislation, every ordinance, is in
24 a position of some person's morality on someone
25 else. Even when a stop sign says "stop," that

1 is the government telling me we value order and
2 safety in my life, and they're going to require
3 me to stop.

4 The only question is whose morality are we
5 going to legislate. And so this is the purpose
6 of law to say this behavior is appropriate, we
7 want to stop it, or this behavior is bad but we
8 don't want to kill it, we're just going to
9 dis-incentivize it, or whatever it is, but
10 every piece of legislation regulates morality
11 or ethics and creates a legal standard in some
12 way. It is a misnomer to think otherwise.

13 To my esteemed Commissioner Diaz, he did
14 not point out that the statute he was referring
15 to only applies to state agencies. It does not
16 apply to the Legislature itself. It says "as
17 specifically provided by law," and he neglected
18 to leave that part out.

19 It's funny when you read polling because
20 little things are a big deal to Joe
21 Lunchbucket. And to us, it just seems like
22 that's just stupid, right. This is one of
23 those things that's a big deal to the ordinary
24 person, even though it may not be a big deal in
25 the grand scheme of things that we're doing.

1 And I would agree that it doesn't seem like
2 that, but it is to the ordinary person.

3 One final thing that this would do is it
4 will provoke the government to think about the
5 real heros in our society that deserve to have
6 buildings named after them, the ones that
7 Commissioner Gainey talked about in the very
8 first proposal, the ones that have given their
9 lives, the firefighters, the law enforcement
10 officers, and the veterans.

11 Those are the ones we ought to be naming
12 projects after. And even though this still
13 allows us to name projects after elected
14 officials, it will certainly provoke thoughtful
15 ways that we can honor the true heros of our
16 society instead of self-gratifying legislators.

17 Thank you, Mr. Chairman.

18 CHAIRMAN BERUFF: Thank you.

19 The secretary will open the board for a
20 vote.

21 Everyone please vote.

22 Have all Commissioners voted?

23 Please close the board and announce the
24 tally, please.

25 THE SECRETARY: 20 yea's, 13 nay's, Mr.

1 Chairman.

2 CHAIRMAN BERUFF: Commissioner Smith is
3 recognized.

4 COMMISSIONER SMITH: Thank you, Mr. Chair.
5 On a point of personal privilege --

6 CHAIRMAN BERUFF: Excuse me one second.
7 Let me go ahead and say that the motion is
8 adopted. The proposal is forwarded to the
9 committee for Style and Drafting Committee.

10 Now Mr. Smith is recognized.

11 COMMISSIONER SMITH: Thank you, Mr. Chair.

12 I have been moved by the arguments that
13 were just made and I was moved by those that
14 voted in favor of the last proposal because you
15 convinced me that when you preempt local
16 government, it should be in a separate Bill,
17 and it should be separately instead of in a big
18 package.

19 So since a majority of this body just
20 affirmed that, after -- after lunch, I plan on
21 moving under Rule 4.5 to bring Proposal 61 out
22 of committee, which was my local government
23 proposal that said if you're going to preempt
24 local government, it should be in a separate
25 Bill, and I look forward to doing that after

1 lunch. Thank you.

2 CHAIRMAN BERUFF: Very good. We are going
3 to recess for lunch. Be back at ten minutes
4 after 1:00, 30 minutes.

5 (Lunch recess taken.)

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CERTIFICATE OF REPORTER

I, CLARA C. ROTRUCK, do hereby certify that I was authorized to and did report the foregoing proceedings, and that the transcript, pages 001 through 189, is a true and correct record of my stenographic notes.

Dated this 13th day of May, 2018, at Tallahassee, Leon County, Florida.

CLARA C. ROTRUCK

Court Reporter

Commission No.: FF 174037

Expiration date: November 13, 2018