

1 CHAIRPERSON JAMES: With that, I'd like to turn to our
2 first order of business today, and as I suggested, what I'd like
3 to do is to start with the old business that was left over from
4 our last meeting, and I'm going to ask Dr. Kelly if you would
5 review for us the recommendations that were tabled, and then I
6 will ask each commissioner who was responsible for handling that
7 particular issue to bring it before the Commission.

8 DR. KELLY: Madam Chair, Commissioners, I will be glad
9 to. We had two recommendations that were tabled last time, 3.47
10 was tabled and given to Commissioner Leone to work further on.
11 That's the one concerning the fundraising, and that was included
12 in the package that was faxed out on Friday, so you should have
13 that in your package. And then recommendation 5.4 was tabled and
14 given to Commissioner Bible to further work on, and that was also
15 sent out in the May 28th package, so those should both be before
16 you.

17 We also had two that were withdrawn and then a set that
18 were remanded. I don't know if you want to deal with those at
19 this point?

20 CHAIRPERSON JAMES: Well, we are at a distinct
21 disadvantage because Mr. McCarthy is not here right now and he was
22 responsible for doing those. Can I suggest that we take about a
23 five-minute recess and see if we can find Commissioner McCarthy
24 and then we will proceed with our agenda?

25 (Whereupon a short break was taken.)

26 CHAIRPERSON JAMES: We will come back to order. Ready
27 to proceed with the agenda. Dr. Kelly, if you would go ahead and
28 call up the first -- remind us what the first one is?

29 DR. KELLY: Yes. Madam Chair, there were two

1 recommendations that were tabled. One of them was Recommendation
2 3.47 given to Commissioner Leone and I know he did some excellent
3 work on that and addressed that in a May 26th and May 28th memo
4 which everyone should have a copy of.

5 CHAIRPERSON JAMES: Can I ask you to speak a little
6 louder?

7 DR. KELLY: The first one is Recommendation 3.47 which
8 Commissioner Leone addressed in two memos dated May 26th and May
9 28th, and you should both have those before you. If not, I have
10 some extra copies here. The other tabled recommendation was No.
11 5.4 which Commissioner Bible worked on and you should have a copy
12 of that in front of you as well. We have two recommendations that
13 were withdrawn and then a set of recommendations that were
14 remanded.

15 CHAIRPERSON JAMES: Let's start with -- I'm sorry,
16 Commissioner Wilhelm?

17 COMMISSIONER WILHELM: I have Richard's memo of the
18 26th, but I don't have the 28th.

19 DR. KELLY: Let me give you an extra copy, but just --
20 I know it was a little confusing to follow it, but in the fax that
21 went out on Friday, the 28th memo --

22 COMMISSIONER WILHELM: I'm sorry, I see it.

23 DR. KELLY: -- is on a different page.

24 COMMISSIONER WILHELM: Thank you.

25 DR. KELLY: It touches on the same subject, and then it
26 also addresses a Chapter 4 subject.

27 CHAIRPERSON JAMES: Okay, 3.47. Would you read that
28 one for us? Does everybody have that in front of them?

29 COMMISSIONER LEONE: Is that the fundraising? I'll

1 read it. Let me just preface this by saying in each of the three
2 recommendations that I drafted I tried to provide the clearest
3 statement of what we wanted to get at that I could, so whether
4 everyone agrees with them or not, it's not intended to do anything
5 but clearly state something that's been already discussed.

6 The first one is about campaign contributions. In most
7 jurisdictions gambling franchises are valuable precisely because
8 they are so rare requiring specific approval from government
9 officials. A green light from officials can create significant
10 opportunities for profit, a red one can be a serious financial
11 reverse.

12 In this context, when politicians solicit contributions
13 from gambling interests, and when such interests offer financial
14 support, motives are sure to be questioned. We believe,
15 therefore, that it would be better for both elected officials and
16 gambling executives if campaign money were off the table.

17 The Commission recognizes the difficulty of campaign
18 finance reform in general and an industry specific contribution
19 restriction in particular. Nonetheless, we believe that there are
20 sound reasons to commend the states adopt tight restrictions on
21 contributions to state and local campaigns by gambling licensees
22 and their key employees.

23 CHAIRPERSON JAMES: Thank you. Is anyone prepared to
24 make a motion?

25 COMMISSIONER LOESCHER: I'll move.

26 CHAIRPERSON JAMES: It's been moved. Is there a
27 second?

28 COMMISSIONER WILHELM: I second.

29 CHAIRPERSON JAMES: Discussion?

1 COMMISSIONER LOESCHER: Madam Chair.

2 CHAIRPERSON JAMES: Commissioner Loescher.

3 COMMISSIONER LOESCHER: Madam Chair, I need some help
4 with the words. The business of gambling licensees, what is the
5 extent of that terminology? My understanding is that workers down
6 to the floor are licensed and permitted and screened by state
7 agencies with licenses to perform jobs. Does that mean a worker
8 is prohibited from donating money to campaigns?

9 COMMISSIONER LEONE: Well, this language is a
10 modification of the New Jersey language, which we talked about at
11 the last meeting. I think you make a good point, Bob. I think
12 this part of the sentence was meant to refer to the corporate
13 entities and individuals who actually own the license to -- the
14 right to run a gambling establishment, because in many states
15 corporations can make campaign contributions, unlike under the
16 federal law.

17 The second phrase, key employees, was meant to embrace
18 whatever a particular state decided was the proper universe of
19 people who would be restricted in some way, entirely or in part.
20 So there probably is a clarification in the language that would
21 make sense. It doesn't immediately come to mind.

22 COMMISSIONER BIBLE: The way I would interpret this is
23 it would not run to federal elections, only state and local.

24 COMMISSIONER LEONE: That's right. Frankly, I spent a
25 lot of time on federal campaign finance reform in recent years,
26 and I don't think there's any good way for us to get at that.

27 COMMISSIONER MOORE: And when you're talking about
28 gaming licensees, you're talking about tribal contributions to the
29 political process, because they're not licensed. You would not be

1 talking about vendors of lottery's contributions to the political
2 process because they are not licensed. You'd only be talking
3 about commercial and casino gambling.

4 COMMISSIONER LEONE: I think that -- not necessarily.
5 I think that people get licenses to run convenience gambling in
6 specific locations in lots of states.

7 COMMISSIONER WILHELM: Richard, was it your intent that
8 both tribal gambling entities and also vendors and suppliers would
9 not be effected by this?

10 COMMISSIONER LEONE: Frankly, my intent was pretty
11 narrow. This is a restriction -- a form of this. Obviously each
12 state might take a different form. That has been tested in the
13 courts and has been found legal as it applies to a group of people
14 and effectively, the courts have said, you can do that, that's a
15 restriction you can do. Reaching beyond that, it seems to me that
16 the federal elections to the tribes, to other kinds of entities,
17 would raise a lot of legal questions in my mind. I wouldn't know
18 how to draft that.

19 COMMISSIONER BIBLE: And you're only recommending, I
20 assume, that it run to those jurisdictions where gambling licenses
21 are allocated, and not a state-wide -- your preamble indicates
22 that it's such a rare commodity, but if it's not a rare commodity,
23 it --

24 COMMISSIONER LEONE: No, I don't think that. I think
25 it's a rare commodity in a sense. In Mississippi it's not
26 available everywhere. It's obviously more plentiful in Nevada
27 than anywhere else, but even there, as you've said on many
28 occasions, Bill, it's not unrestricted. It's considered a
29 privilege and one has to have a license to do it.

1 CHAIRPERSON JAMES: John?

2 COMMISSIONER WILHELM: I don't want to belabor the
3 Commission's time, but as I indicated in our last meeting, I have
4 a lot of trouble with this philosophically because first I don't
5 believe it makes sense to single out industries for -- as a
6 pretense that we're doing something about campaign finance. I
7 think campaign finance reform in this country is badly needed. I
8 think the present situation is scandalous, but I think the notion
9 of singling out a particular industry doesn't make any
10 philosophical and equitable sense.

11 Number two, as I've indicated before, I, probably from
12 a narrow selfish point of view -- our unions should be delighted
13 at the notion of restricting the political activities of
14 employers, but I don't look at it that way. I believe that once
15 we start restricting political activities of anybody that it's a
16 domino, and we could go around restricting political activities of
17 people we don't happen to like or agree with. So I don't support
18 it, with all due respect to Commissioner Lanni's stated position.

19 But beyond that, I think that a couple of troubling
20 issues about this particular draft have been raised here.
21 Commissioner Loescher's right that this draft in many
22 jurisdictions would have the effect of limiting ordinary workers
23 and their ability to make political contributions, which I think
24 would be either outrageous, laughable, or both.

25 The tribal issue that Commissioner Bible raises I think
26 is very troubling. Although I haven't looked at the comparative
27 numbers lately, I would hazard a guess that if the tribe which
28 operates the Flaxwoods Casino in Connecticut is not the largest
29 political contributor in Connecticut, it's certainly among the

1 largest. I believe, Richard, and I could be wrong about this, but
2 I believe that a state could limit any contributor to a state
3 campaign. The United States government, for example, limits
4 foreign countries from contributing to the federal level, there's
5 a control of foreign countries.

6 So there's no legal issue about a state trying to
7 control a tribe and all of the legal difficulties that that
8 raises, but there is, I believe, the possibility for a state to
9 say the following kinds of entities can't contribute. So since
10 tribal gambling is the fastest growing segment of the gambling
11 industry, it seems to me that if the Commission wants to go down
12 this road, it at least ought to go down this road in an equitable
13 fashion.

14 CHAIRPERSON JAMES: Would you suggest something, John,
15 that may make it more equitable in terms of the language?

16 COMMISSIONER WILHELM: Well, I'd have to think about it
17 and try to fine tune it. I feel somewhat -- I'm not the
18 appropriate person to do that because I don't support the overall
19 concept.

20 CHAIRPERSON JAMES: That's why you're the perfect
21 person to do it.

22 COMMISSIONER WILHELM: If the Commission is going to go
23 down this road, I don't know how you limit workers, I don't know
24 how you pick and choose amongst casino operators. None of that
25 makes any sense to me.

26 COMMISSIONER LEONE: I think we could deal with the
27 worker problem and this other issue by using the word franchise in
28 the sentence, who receive permission to operate a gambling
29 franchise of any type in the state. Or John, if by extension we

1 want to include the tribes, or under compact with the state. I
2 don't think it's quite as simple legally as it sounds, but my view
3 on the general issue of campaign finance parallels Johns. It's
4 extremely difficult. It's extremely important in this country.

5 On this one, as Daschel Hammett once said in San
6 Francisco, I'll take what I can get. So if there's a slice of
7 campaign finance reform, particularly campaign finance reform as
8 it applies to people and organizations who prosper financially by
9 getting special permission from the government to do things like
10 liquor licenses, -- no I would extend -- I would like to get into
11 campaign finance in a big way. That's not our job, and it's a
12 very hard task.

13 I think -- I certainly think corporate entities are
14 properly restricted in many federal laws from campaign
15 contributions. I think it should be in states. I single out
16 gambling here for two reasons. One, it's our charge. If you look
17 at gambling and you raise the issue of campaign contributions, you
18 reasonably come to the conclusion they don't mix well.

19 Secondly, because of the fact that gambling in general,
20 people in gambling businesses in general are heavily dependent on
21 getting permission from the government, getting an exception. The
22 term we used to use -- we've worn out a lot of terms in the course
23 of all our meetings -- is exception, getting an exception to the
24 general rule that we don't allow gambling here except in the case
25 of this or that or the other thing. Whenever you're involved in
26 exceptions, I think you -- questions are bound to be raised.

27 CHAIRPERSON JAMES: In order to move this along, what
28 would happen, Dick, if we dropped the preamble as we did in many
29 of our recommendations? Start with the Commission recognizes, and

1 put in your franchise language and take out key employees so that
2 it's clear that it's only -- would that get us closer to
3 something?

4 COMMISSIONER LOESCHER: Madam Chair?

5 CHAIRPERSON JAMES: Commissioner Loescher.

6 COMMISSIONER LOESCHER: Campaign finance reform is an
7 issue everywhere, federal, state, local government. It's always
8 those people who are on the wrong end of the stick who advocate
9 campaign finance reform. They're not willing to accept the
10 process of winning and losing. Native Americans objected to the
11 Winchester and Remington rifles 150, 200 years ago. Look what
12 happened then.

13 Today we'd like to participate in the political process
14 and learning how to do that, we've had a number of successes at
15 it, but not nearly enough. We struggle at every level, local, and
16 state, and Congress, to try to get our message out, and to try to
17 win favor with the public about our ideas, about our place in this
18 society, and it's a tough battle.

19 What happens is that you have the politics of
20 exclusion, not the politics of inclusion when you start making
21 exceptions. It's hard for a people to raise money to even have
22 the money for a soft money campaign on public issues, much less to
23 try to raise money for hard money for a hard money campaign for a
24 candidate or whatever. It just make it more difficult, these
25 kinds of ideas to exclude.

26 So I just have a hard, hard time with this kind of
27 thinking that disenfranchises people. I think the American way is
28 to put up your best ideas and let them win in the court of public
29 opinion. If you can't, then you have to wait for another day. I

1 don't think any amount of tinkering with these words are going to
2 get us there, so I'm going to vote no no matter what you write.

3 CHAIRPERSON JAMES: Okay. Having said that, we do have
4 a motion before us.

5 COMMISSIONER McCARTHY: Madam Chair, may I say I'll
6 support the motion with the amendments you suggested if that's
7 acceptable to Mr. Leone, and let me just say one sentence. While
8 I certainly accept -- I've changed my views, as we discussed in
9 the last Commission meeting, because Mr. Lanni thinks that this is
10 appropriate. I'm from California, as you all know, and we had a
11 proposition on the ballot last year in which \$88 million were
12 spent to win a liberalization of tribal casinos in California. A
13 lot of the money was from Nevada and about two-thirds of the money
14 were from tribes here.

15 I'm not sure I could equate that comfortably with the
16 expression of free speech. It didn't seem to be too much speech.

17 It seemed to be an exchange of slogans. Not too much attempt to
18 enlighten the public on the merits or lack of merits of the issues
19 involved. So that's really at the core, I think, of what Mr.
20 Leone has proposed here in part, is that the general sense, even
21 though this goes to a narrower part of that. I don't think we
22 should exclude what is a very rational proposal.

23 CHAIRPERSON JAMES: Commissioner Lanni.

24 COMMISSIONER LANNI: My views, just so I can
25 particularly specifically state is, one, I don't think individuals
26 should be denied the right to contribute to campaigns. I do
27 believe, much as the federal law, that corporations should not be
28 in a position. My own view is this does not embody my particular
29 position on this subject. Philosophically I think there should be

1 limitations, but the limitations should be on the entities
2 themselves, the corporations, in the event that there are
3 corporations, the companies, the privately held, what-have-you.

4 But individuals at all levels from the most basic
5 worker within a facility to the chief executive officer in the
6 facility should have the ability to make contributions to city,
7 county and state races, but not have the ability to be reimbursed
8 for those contributions.

9 In fairness, I know that the federal government has
10 restrictions, as John mentioned, on foreign contributions.
11 They're not enforced very effectively, as of late at least, but
12 that's a separate issue not for the purpose of this meeting. So
13 this proposal does not embody my thoughts, so I would not be able
14 to support it. My position, as I said, is pretty clear.

15 CHAIRPERSON JAMES: I am trying to see if we can bring
16 us to a point where we can capture, because I believe that there
17 is some underlying consensus, if we can work toward getting there.
18 If not, we just need to call it for a vote and vote it up or
19 down.

20 It seems to me that Terry, your issue is with the term
21 licensees, whether or not that ought to be gambling entities or
22 corporations, and I'm struggling for what the appropriate word
23 would be.

24 COMMISSIONER LANNI: I think to write it right now
25 would be difficult. It may not have a second anyway.

26 CHAIRPERSON JAMES: No, it did have a second.

27 COMMISSIONER LANNI: My particular position? My
28 position was just my position. It wasn't offered as an amendment.

29 CHAIRPERSON JAMES: Right, but what would it be?

1 COMMISSIONER LANNI: I stated my view, personal view is
2 that city, county and state races that entities, licensed
3 entities, should not be in a position to make contributions,
4 however employees and officers of those entities have the, in my
5 opinion, the right to make contributions, but do not have the
6 right to be reimbursed for them by the entity or any other source.
7 Not unlike the federal law.

8 COMMISSIONER WILHELM: When you say entities, you use
9 the term licensed. Would you include tribes in that?

10 COMMISSIONER LANNI: I think that all entities, and I
11 would propose the tribal governments also be included in that.
12 Lottery entities that are involved in licensing, providing goods,
13 services if you will.

14 COMMISSIONER WILHELM: So gambling entities.

15 COMMISSIONER LANNI: But individual tribal members
16 should have the same rights that any other individual has.

17 CHAIRPERSON JAMES: We're going to have a break as soon
18 as we get through the old business. I'm going to ask that we
19 table that one, let Dick work on the language a little bit, and if
20 we can't come to any consensus, then we'll just vote it up or
21 down.