

1 CHAIR JAMES: With that, let's turn to Section 3 and a
2 reminder that the proposed recommendations, again, could be
3 placed under a number of different sections, and our purpose is
4 to settle on the recommendation first, and we can then talk a
5 little bit at a later date in June when we get together about
6 where that should go.

7 A handout is available for Recommendation 3.13. Has
8 that been passed out? It has been? It's being done now?

9 And for Recommendation 3.14, contains the exact
10 language that we voted on last time. It's just important to
11 remember that.

12 COMMISSIONER McCARTHY: I'm sorry.

13 CHAIR JAMES: I would -- I'm sorry?

14 COMMISSIONER McCARTHY: I'm sorry. Did you say that we
15 voted on 3.4 or 3.14?

16 CHAIR JAMES: Three, point, one, four.

17 COMMISSIONER McCARTHY: Thank you very much.

18 COMMISSIONER WILHELM: I had a question actually in
19 that regard since you went to 3.14.

20 CHAIR JAMES: We're going to start at the top, and
21 we'll get to that one in a minute.

22 Again, just to remind Commissioners that what you have
23 in front of you, 3.1 through 3.13 were recommendations that came
24 out of our April 7 through 8 meeting as consensus
25 recommendations.

26 We can go through each of those individually or we
27 could look at them in a group. What's your pleasure?

28 COMMISSIONER BIBLE: I'd like to handle them one by
29 one.

30 CHAIR JAMES: Okay. Let's do it.

1 Three, point, one, "the Commission recommends that
2 because in many states there is little regulatory oversight for
3 organizations contracted to help manage or supply the lotteries.
4 States should put all individuals, entities, and organizations
5 involved with managing or supplying the lottery through a
6 rigorous background check and licensing process."

7 Is there a motion to adopt?

8 COMMISSIONER LANNI: Since I recommended it, I move
9 that we adopt that.

10 COMMISSIONER WILHELM: Second.

11 I have a question. I support the thrust of this
12 recommendation. However, just as a point of information, is
13 there, in fact, in our records support for the phrase "there is
14 little regulatory oversight for organizations contracted to help
15 manage or supply the lottery"?

16 I don't specifically recall it, and in fact, there's at
17 least some inference to the opposite in some of these governor
18 letters. So, again, I support the thrust of the recommendation,
19 but I'm very nervous about our asserting things that our record
20 doesn't support. I don't recall support for that particular
21 point.

22 CHAIR JAMES: John, what I have done is marked the
23 phrase "there is little regulatory oversight for organizations,"
24 and I'll direct the staff to check the record for that, and we'll
25 bring it back to you with that language.

26 COMMISSIONER LANNI: Madame Chair.

27 CHAIR JAMES: Excuse me. Commissioner McCarthy then
28 Commissioner Lanni.

29 COMMISSIONER McCARTHY: Madame Chair, I was just going
30 to suggest we're going to come across a number of these where

1 possibly a word change would satisfy the author of the issue and
2 allow us to make some decisions and move on.

3 CHAIR JAMES: That would be fine.

4 COMMISSIONER McCARTHY: I don't know if Mr. Lanni had a
5 word, "limited" instead of "little" or whatever, that he might
6 feel would fulfill his purpose in this.

7 COMMISSIONER LANNI: The recommendation that I made was
8 an oral one at the meeting in Virginia, and this is not actually
9 the specific of what my recollection of my recommendation was,
10 and I would recommend that we delete the word "because," delete
11 the word "many," add the word "where" following "states."

12 And it would read, "The Commission recommends that in
13 states where there is little regulatory oversight for
14 organizations," because that was the intent.

15 There was an indication there were certain states. I
16 don't recall, in fact, there were many states.

17 COMMISSIONER McCARTHY: Move the question.

18 CHAIR JAMES: All in favor?

19 (Chorus of ayes.)

20 CHAIR JAMES: Any opposed?

21 (No response.)

22 COMMISSIONER LANNI: You have to ask for abstentions.

23 CHAIR JAMES: Are there any abstentions?

24 (No response.)

25 CHAIR JAMES: I didn't hear any.

26 COMMISSIONER LANNI: There may well be though.

27 CHAIR JAMES: Three, point, two, "the Commission
28 recommends to states with lotteries that states should publicly
29 develop and review model regulations for their lottery in the
30 form of best practices designed to be adopted legislatively."

1 COMMISSIONER LANNI: So moved.

2 CHAIR JAMES: Is there a second?

3 COMMISSIONER McCARTHY: Second.

4 CHAIR JAMES: Discussion?

5 (No response.)

6 CHAIR JAMES: Call for the --

7 COMMISSIONER LANNI: Call for the question.

8 CHAIR JAMES: Thank you.

9 All in favor?

10 (Chorus of ayes.)

11 CHAIR JAMES: Any opposed?

12 (No response.)

13 CHAIR JAMES: Three, "the Commission recommends that
14 states effectively police themselves through a process truly
15 independent from state lottery agencies."

16 COMMISSIONER LANNI: Madame Chair.

17 CHAIR JAMES: Commissioner Lanni.

18 COMMISSIONER LANNI: Not to be burdensome, but I really
19 do request that you ask for any abstentions because --

20 CHAIR JAMES: All right.

21 COMMISSIONER LANNI: -- you never know if you're not
22 going to take a roll call vote.

23 CHAIR JAMES: We will do that. Thank you.

24 COMMISSIONER WILHELM: On 3.3.

25 CHAIR JAMES: Un-huh.

26 COMMISSIONER WILHELM: I can't unfortunately point to
27 it at this second, but I believe there's at least one other
28 recommendation somewhere in here that is similar to this, and I
29 thought with all due respect to the author of this one, it's
30 perhaps somewhat more precisely worded. I don't remember where

1 it is, but I would support the concept, but I think perhaps we
2 ought to look at -- I don't know if there's an organized,
3 efficient way to do this, but --

4 CHAIR JAMES: Would you like to table this one and we
5 can come back to it later?

6 COMMISSIONER McCARTHY: Pass temporarily?

7 CHAIR JAMES: Yes.

8 COMMISSIONER McCARTHY: Till we look for the other
9 similar motion, and I think we're going to have to do that.

10 CHAIR JAMES: We're very flexible here.

11 COMMISSIONER McCARTHY: I think we're going to have to
12 do that in a number of places.

13 COMMISSIONER WILHELM: Yeah, that's okay. There's a
14 bunch of these, as you pointed out earlier, Kay.

15 CHAIR JAMES: That's right.

16 COMMISSIONER WILHELM: There's a whole bunch of these.

17 COMMISSIONER LEONE: I've marked some of them, but now
18 that I've marked them, I can't find them again.

19 (Laughter.)

20 COMMISSIONER WILHELM: I marked them in my head, which
21 means they're lost forever.

22 CHAIR JAMES: Why don't we temporarily pass that one

23 COMMISSIONER BIBLE: It may be there's time just to
24 talk about this and decide what we want to say about this issue
25 because I think, and this is a good example, this is an issue
26 where I believe the Commission wants to make a recommendation to
27 states that they develop an independent organization, a board of
28 directors, whatever you want to call it, to oversee the
29 activities of state lotteries, to look at their advertising

1 practices, their marketing practices, and a number of their
2 practices to create some independence.

3 CHAIR JAMES: Bill, I think that's in the lottery
4 section, and so I'd like to move on, and when we get to that, we
5 can have a lengthy discussion on those issues, and it would be
6 within the context, if you don't mind.

7 COMMISSIONER MCCARTHY: Okay. Pass temporarily.

8 COMMISSIONER MOORE: May be a better one.

9 CHAIR JAMES: Number four, "the Commission recommends
10 to the President and Congress, GSA and GAO that the federal
11 government should evaluate state lottery regulations and
12 encourage states to develop and adopt effective regulations."

13 COMMISSIONER WILHELM: If I may.

14 CHAIR JAMES: Oh, certainly. Commissioner Wilhelm.

15 COMMISSIONER WILHELM: I'm sorry. I didn't know what
16 the procedure was here.

17 I don't think this makes any sense. I think the
18 federal government has no demonstrated capacity to do the job
19 being assigned here. We have other recommendations to the effect
20 that states should figure this stuff out. We're trying to give
21 some guidance.

22 I don't know who in the federal government would do
23 this. There's no expertise there that I'm aware of.

24 COMMISSIONER LEONE: Kay, I agree with John. I also
25 think that maybe when we bring one up, we should see if there is
26 a Commissioner who still wants the parent of the recommendation
27 because sometimes I think these things were captured in oral
28 discussion --

29 CHAIR JAMES: Many of them were.

1 COMMISSIONER LEONE: -- in the flow and, you know,
2 actually on paper in this form.

3 CHAIR JAMES: Well, remember the process is it must be
4 moved. If it's not moved and it's not seconded --

5 COMMISSIONER LEONE: All right.

6 CHAIR JAMES: -- and it has not been, so we don't
7 necessarily need to have a discussion.

8 COMMISSIONER WILHELM: Richard, if no one claims
9 parentage, is it an orphan or a bastard?

10 (Laughter.)

11 COMMISSIONER LEONE: John, I'm a liberal Democrat.
12 They're all good children to me.

13 (Laughter.)

14 COMMISSIONER WILHELM: Touché.

15 CHAIR JAMES: Oh, yes, the cameras are on today.
16 Commissioner Dobson.

17 COMMISSIONER DOBSON: I'm not prepared to move that we
18 accept this, but I sure would like to hear the rationale of
19 wherever the notion came from.

20 CHAIR JAMES: Well, unless there is a motion, and I
21 think I'm going to have to be very rigid about this in order to
22 get us through the process, we cannot discuss them unless there
23 is a motion before us, and at this point there is no unless you'd
24 like to move it and have it seconded.

25 Hearing none, number five.

26 COMMISSIONER LEONE: That may have been recommended by
27 somebody before we had to deal with those agencies. So --

28 (Laughter.)

29 CHAIR JAMES: "The Commission recommends to state
30 governments and the federal government that states are best

1 equipped to regulate gambling within their own borders with two
2 exceptions: tribal and Internet gambling."

3 COMMISSIONER BIBLE: Well, I would move the
4 recommendation. That's been the historical pattern throughout
5 the United States. I think that was the earlier finding of the
6 1976 --

7 CHAIR JAMES: So are you moving this?

8 COMMISSIONER BIBLE: I would.

9 PARTICIPANT: Second.

10 CHAIR JAMES: It's been moved and seconded. We are now
11 ready for discussion.

12 COMMISSIONER DOBSON: Madame Chair.

13 CHAIR JAMES: Commissioner Dobson and then Commissioner
14 Wilhelm.

15 COMMISSIONER DOBSON: Three, point, five spells out two
16 exceptions with regard to tribal and Internet gambling. In 3.26,
17 there is a proposal that we made that whenever two or more states
18 are within 50 miles of a gambling facility in a bordering state,
19 that there be a compact arrangement. I think it's spelled out
20 there in 3.26.

21 So those have to be --

22 CHAIR JAMES: Balanced.

23 COMMISSIONER DOBSON: -- balanced.

24 CHAIR JAMES: Certainly.

25 COMMISSIONER DOBSON: And I think my proposal would be
26 that 3.5 include that third exception.

27 CHAIR JAMES: Who made the motion?

28 COMMISSIONER BIBLE: I made the motion.

29 CHAIR JAMES: Okay. You would have to accept that as a
30 friendly amendment to your motion.

1 COMMISSIONER LEONE: May I make a comment? I think the
2 way it's friendliest from your point of view, Bill, is that the
3 federal government would be involved when states agree to develop
4 a compact because a compact --

5 COMMISSIONER BIBLE: Well, I didn't necessarily agree
6 that it should be mandatory that compacts are developed in those
7 situations, and there's a provision that any compact between
8 states has to be ratified by the Congress.

9 COMMISSIONER LEONE: Has to be ratified.

10 COMMISSIONER BIBLE: And that's a constitutional
11 provision. So it would tend to follow if you do the other
12 recommendation that there would be a federal role. I think the
13 federal role that's addressed here is more active in terms of
14 regulation, not in terms of the approval process.

15 CHAIR JAMES: So, Jim, will you hold that one and we'll
16 discuss that one when we get there?

17 COMMISSIONER DOBSON: Sounds fine.

18 CHAIR JAMES: Commissioner Wilhelm.

19 COMMISSIONER WILHELM: I support the thrust of this
20 recommendation, but it gives rise, as did an earlier one, to a
21 question of process that I'm still a little puzzled on.

22 Suppose that we adopt 3.5. Separate and apart from
23 Jim's interstate compact point, separate and apart from that,
24 there are, I think, some other recommendations in here that are
25 quite similar to this. By adopting, let's say, 3.5, if the
26 majority does, are we precluding the possibility of trying to
27 integrate these things?

28 CHAIR JAMES: No, we're not, John, and we talked a
29 little bit about that before we got started this morning just in
30 terms of if that, in fact, happens, we have the ability sitting

1 right here later in the day to say, "You know, that one looks
2 remarkably like one we did this morning. This language is a
3 little better. Can we combine them?"

4 And of course, we have the ability to do that.

5 COMMISSIONER BIBLE: But I think John's question is
6 later on if we have a recommendation, for instance, there's a
7 recommendation that the federal government become involved in
8 treatment programs in the event the states don't act; would we
9 then take this recommendation and comport it or conform it with
10 that recommendation if we act on that, and I think the answer has
11 to be yes.

12 CHAIR JAMES: Of course we can.

13 COMMISSIONER BIBLE: We have to make the whole thing
14 flow.

15 CHAIR JAMES: Of course we can.

16 COMMISSIONER WILHELM: So does it follow from that,
17 Kay, again on procedure, that while the Commissioners are
18 adopting the concept here, to the extent that other
19 recommendations bear on this one, we're not necessarily adopting
20 every word?

21 CHAIR JAMES: The specific language, that's absolutely
22 correct because we may have the five recommendations, and in our
23 attempt to make this a more readable, usable document, we may
24 want to fold them into one, and if that's the Commission's
25 pleasure, we can certainly do that.

26 COMMISSIONER WILHELM: Okay.

27 CHAIR JAMES: Which will then necessitate some word
28 changes.

29 COMMISSIONER WILHELM: Okay. Thank you.

30 CHAIR JAMES: Number six.

1 PARTICIPANT: Wait.

2 CHAIR JAMES: Did we do that? We didn't do that.

3 Let's vote on that one.

4 Any further discussion on 3.5?

5 (No response.)

6 COMMISSIONER LANNI: Move the question.

7 CHAIR JAMES: All in favor.

8 (Chorus of ayes.)

9 CHAIR JAMES: Any opposed?

10 (No response.)

11 CHAIR JAMES: Any abstentions?

12 (No response.)

13 CHAIR JAMES: Hearing none, number six. "The
14 Commission recommends to states with lotteries that state
15 lotteries should not be allowed to move to casino styled games,
16 especially since lottery outlets are widespread throughout most
17 communities."

18 That's an interesting one.

19 COMMISSIONER McCARTHY: Madame Chair.

20 CHAIR JAMES: Commissioner McCarthy.

21 COMMISSIONER McCARTHY: I don't know if one of the
22 members of the Commission is an author of this, and they may want
23 to address it first. If not, I have a --

24 CHAIR JAMES: Well, the first thing is we need a motion
25 to adopt. Before we have any discussion, is there a motion to
26 adopt?

27 COMMISSIONER McCARTHY: Well, you tell me how to do
28 this. I wanted to put in a few words clarifying what we mean by
29 "casino styled games."

1 COMMISSIONER BIBLE: Well, I believe it's Dr. Dobson's
2 recommendation, and we --

3 COMMISSIONER DOBSON: I believe it was.

4 COMMISSIONER BIBLE: -- we had discussion of this at
5 the reporting writing subcommittee some two months ago.

6 CHAIR JAMES: Some time ago.

7 COMMISSIONER BIBLE: And I think the intent was that
8 they have games that the determination -- that it be limited only
9 to games where the determination is made by a central computer
10 and not by an individual random number generator at various
11 locations, which would preclude all of those instant lottery type
12 games.

13 I believe that was your intent.

14 COMMISSIONER DOBSON: It was, and again, I think at the
15 time that I talked about this, I referred to living next to a
16 pari-mutuel facility that was within a block or two of my house,
17 and we talked about that.

18 CHAIR JAMES: Jim, would you like to change the wording
19 in that and offer it as a recommendation?

20 COMMISSIONER DOBSON: I'm not sure what you mean. "The
21 Commission recommends to states and lotteries"?

22 CHAIR JAMES: Well, I think the confusion is over
23 casino styled games.

24 COMMISSIONER BIBLE: Let me refresh your memory. At
25 the Research Subcommittee, you had this particular
26 recommendation, and your concern was in the lotteries, not pari-
27 mutuels, but in the lotteries that a lot of these games
28 replicated slot machines because they have random number
29 generators contained within the device, and that the outcome is
30 determined right at that point of purchase instead of a lottery

1 where you have a continual series of ticket sales, and then the
2 outcome is determined after a period of days or weeks or months
3 in terms of a draw.

4 CHAIR JAMES: And so to have it accurately reflect what
5 it is you're after.

6 COMMISSIONER McCARTHY: Madame Chair, well, may I
7 suggest this?

8 CHAIR JAMES: Certainly.

9 COMMISSIONER McCARTHY: Why don't we give staff a
10 chance to write some language reflecting what Commissioner Bible
11 just said, and perhaps we could show that to Commissioner Dobson
12 and then return to this at some point at the end of this chapter
13 or whenever you say?

14 CHAIR JAMES: I think that's appropriate, and as I said
15 in the opening, when appropriate we can table a particular
16 recommendation if it needs further work or if we want to discuss
17 it further later on. That would be an appropriate candidate for
18 that.

19 Commissioner Wilhelm.

20 COMMISSIONER WILHELM: As long as somebody's going to
21 wordsmith this one, I understand, I believe, the purpose of the
22 phrase "especially since lottery outlets are widespread
23 throughout most communities." I think the notion was that, you
24 know, since convenience stores, for example, and so many nooks
25 and crannies of every community sell lottery tickets, therefore,
26 if they put slot machine styled things into those convenience
27 stores, that's not a good thing, and I would personally agree
28 with that.

29 However, I'm not sure that that phrase is constructed
30 to really capture what's going on here because it is not only in

1 existing lottery ticket sales outlets that these electronic
2 lottery outlets appear.

3 For example, in California, the lottery run electronic
4 keno that has showed up in bars and restaurants throughout the
5 state, even if those bars and restaurants don't sell lottery
6 tickets. So I think that while I understand the point of that
7 phrase, that perhaps it could be reworked a little bit to bear in
8 mind that it isn't just in existing lottery outlets, but in all
9 kinds of new places that this stuff shows up.

10 COMMISSIONER DOBSON: Madame Chair, give us an
11 opportunity to put together --

12 CHAIR JAMES: Certainly, we will take --

13 COMMISSIONER DOBSON: -- some language, and if you'll
14 allow us, we'll come back to it.

15 CHAIR JAMES: We'll table number six and move on to
16 number seven, 3.7. "The Commission recommends that states should
17 ban aggressive advertising strategies that target or impact those
18 in impoverished neighborhoods.

19 COMMISSIONER McCARTHY: Who's the author of this,
20 Madame Chair?

21 COMMISSIONER DOBSON: I think I maybe, and I will move
22 that we accept it.

23 COMMISSIONER McCARTHY: I have, if I may, before we get
24 -- I have just one strengthening amendment. Something to the
25 effect "or youth anywhere."

26 CHAIR JAMES: Targeting youth anywhere?

27 COMMISSIONER McCARTHY: Targeting -- to target those in
28 impoverished neighborhoods or youth anywhere.

29 COMMISSIONER DOBSON: I accept that.

30 CHAIR JAMES: Wait. I have not heard a second.

1 COMMISSIONER LEONE: I'll second it.

2 CHAIR JAMES: Commissioner Leone. Now we're ready for
3 discussion.

4 COMMISSIONER LEONE: I have another small amendment,
5 which is I think that it should read that the Commission
6 recommends that states should ban aggressive advertising
7 strategies, especially those, and then go on because I think we
8 should urge the states to get away from these aggressive
9 advertising strategies no matter what neighborhoods they're in.
10 They're very misleading.

11 COMMISSIONER WILHELM: I don't dispute the thrust of
12 that. Isn't there another one --

13 COMMISSIONER LEONE: There's another one floating
14 around.

15 COMMISSIONER WILHELM: -- that's perhaps a little more
16 fulsome.

17 COMMISSIONER LEONE: Well, the hard part is --

18 CHAIR JAMES: We can go ahead and move on this one.
19 When we get to that one, John, if we need to substitute we can;
20 if we need to combine we can.

21 COMMISSIONER WILHELM: Okay. And then I just have one
22 linguistic bone to pick here. Again, I agree with the thrust of
23 this, and I don't have any problem with the word "target." I do
24 have a problem with the parenthetical phrase "or impact" because
25 I don't know how anybody is supposed to distinguish between the
26 neighborhoods that these things impact as opposed to those that
27 they target.

28 COMMISSIONER LEONE: I share John's view on that.

29 CHAIR JAMES: Commissioner Dobson, would you be willing
30 to take out "or impact" so that we can move on this?

1 COMMISSIONER DOBSON: All right.

2 CHAIR JAMES: "The Commission recommends that states
3 should ban aggressive advertising strategies, especially those
4 that target impoverished neighborhoods or youth anywhere" is how
5 it stands at this point.

6 COMMISSIONER WILHELM: And then I have one more
7 question.

8 CHAIR JAMES: Certainly. Commissioner Wilhelm.

9 COMMISSIONER WILHELM: Was this intended to refer to
10 lotteries?

11 And if so, it should say so. My assumption is that it
12 was, but it doesn't say that.

13 COMMISSIONER DOBSON: I don't think it ought to be
14 limited to that.

15 COMMISSIONER LEONE: State run games or something.

16 COMMISSIONER WILHELM: Well, states don't have the
17 right to ban other kinds of advertising.

18 COMMISSIONER LEONE: No, but this is state run. This
19 is state government run. I think that's clear.

20 COMMISSIONER WILHELM: Well, it doesn't say so, but I
21 inferred that that was the intent.

22 COMMISSIONER BIBLE: I inferred that also.

23 COMMISSIONER WILHELM: But it doesn't actually say so.

24 COMMISSIONER BIBLE: But yours would be broader if it's
25 governmentally sponsored gaming. It would apply to tribal
26 gaming.

27 CHAIR JAMES: Commissioner Dobson, would you consider
28 language that specifically says state lotteries?

29 COMMISSIONER DOBSON: Yes, or state run gambling.

1 COMMISSIONER McCARTHY: I think that's better, Madame
2 Chair. Don't limit it to lotteries. This is any state owned or
3 run gambling.

4 COMMISSIONER BIBLE: Would that include tribal
5 gambling? That's governmental gambling.

6 COMMISSIONER LEONE: That's not state.

7 COMMISSIONER LANNI: What other forms of state run
8 gambling exist?

9 COMMISSIONER WILHELM: Well, like in Delaware they run
10 slot machines at the tracks.

11 COMMISSIONER LANNI: The slot machines are privately
12 operated. They're not run by the states.

13 COMMISSIONER WILHELM: Well, they're part of the
14 Delaware lottery.

15 COMMISSIONER McCARTHY: The federal government owns the
16 contract.

17 CHAIR JAMES: So that we can follow this discussion,
18 I'm going to ask Commissioners if they will wait to be
19 recognized.

20 Commissioner Dobson.

21 COMMISSIONER DOBSON: I've just been informed that
22 Kentucky is considering now state run casinos. So it would be
23 broader than just the lotteries.

24 CHAIR JAMES: All right. So the recommendation as it
25 stands right now would read "state run gambling," and there may
26 be a better way of saying that, and it may come up a little
27 later.

28 COMMISSIONER DOBSON: Maybe "operated"?

29 CHAIR JAMES: Or "state operated gambling," would that
30 be better?

1 COMMISSIONER McCARTHY: Owned and operated.

2 COMMISSIONER LANNI: Where's that going in?

3 CHAIR JAMES: "The Commission recommends that state
4 operated gambling." We want "owned and operated."

5 Would you accept that as a friendly amendment,
6 Commissioner Dobson?

7 COMMISSIONER DOBSON: I would.

8 CHAIR JAMES: "State owned and operated gambling"
9 should -- let's read this again. "The Commission recommends that
10 state owned and operated gambling" --

11 COMMISSIONER LANNI: States that own and operate.

12 CHAIR JAMES: "States that own should ban aggressive
13 advertising strategies." There's an "especially" in there
14 somewhere.

15 COMMISSIONER WILHELM: "Especially those that" --

16 CHAIR JAMES: "Especially those that target
17 impoverished neighborhoods or youth."

18 It has been moved and seconded. Do I hear a call for
19 the question?

20 COMMISSIONER LANNI: Well, I'm sorry. You dropped out
21 the words "those and." Wouldn't it still be "targeting those in
22 impoverished neighborhoods" --

23 CHAIR JAMES: Yes.

24 COMMISSIONER LANNI: -- rather than "impoverished
25 neighborhoods"?

26 CHAIR JAMES: yes.

27 COMMISSIONER BIBLE: Well, the thrust of the
28 recommendation at this point is to deal with advertising
29 practices that are aggressive and then some examples being
30 targeting neighborhoods and --

1 CHAIR JAMES: And youth.

2 COMMISSIONER BIBLE: -- and youth, and at least from my
3 perspective it's an unequal recommendation because it does not
4 apply to tribal gaming. There's two exemptions to the federal
5 restrictions on advertising, and that's tribal gaming and
6 lottery, and it would seem to me if you're going to ask one group
7 to restrict and restrain their advertising practices, you ought
8 to ask the other group to do so.

9 CHAIR JAMES: Are you suggesting an amendment to Dr.
10 Dobson's --

11 COMMISSIONER BIBLE: I think it should be any form of
12 governmentally sponsored and operated gaming.

13 CHAIR JAMES: Commissioner Dobson?

14 COMMISSIONER DOBSON: Yeah, I would agree.

15 COMMISSIONER LANNI: Then you drop the states.

16 COMMISSIONER WILHELM: I would say just for the record
17 that based on all of the testimony before the Indian Gambling
18 Subcommittee, I don't think that the tribes would disagree with
19 this.

20 COMMISSIONER BIBLE: No, I think the excess you're
21 aiming at in this recommendation, at least the record would
22 demonstrate it's principally state lotteries, but you don't know
23 what's going to happen tomorrow.

24 COMMISSIONER DOBSON: That's right.

25 CHAIR JAMES: Are we ready for the vote?

26 COMMISSIONER WILHELM: So what does it say now?

27 CHAIR JAMES: It now says, "The Commission recommends
28 that any form of state" -- "any form of governmental" --

29 COMMISSIONER WILHELM: Gambling.

30 CHAIR JAMES: -- "owned or operated," still in there.

1 COMMISSIONER WILHELM: Government owned or operated.

2 CHAIR JAMES: "Governmental owned or operated gambling
3 should ban aggressive," and then it goes on from there.

4 Yes? Did that capture yours, John?

5 COMMISSIONER WILHELM: Well, in concept, but I don't
6 want to be nitpicky here, but shouldn't it say the Commission
7 recommends that state or tribal governments that own or operate
8 gambling?

9 COMMISSIONER DOBSON: That would be better, I think.

10 COMMISSIONER BIBLE: That would be better. That's more
11 explicit.

12 CHAIR JAMES: State or tribal.

13 COMMISSIONER McCARTHY: Tribal and state governments.

14 COMMISSIONER WILHELM: Put the states first. They're
15 worse.

16 CHAIR JAMES: Right now we have "tribal or state
17 governments."

18 COMMISSIONER WILHELM: Whichever.

19 CHAIR JAMES: And the staff will work with that to make
20 sure that we capture the full sense of what was here.

21 Commissioner Lanni.

22 COMMISSIONER LANNI: I don't mean to be picky, but the
23 federal government --

24 CHAIR JAMES: Oh, go ahead.

25 COMMISSIONER LANNI: -- the federal government operates
26 slot machines at military bases. Bill seems to think they're not
27 operated in the United States.

28 COMMISSIONER BIBLE: Not within the continental United
29 States.

1 COMMISSIONER LANNI: So I don't know if that needs to
2 be included also or in Jim's thought that, well, what happens now
3 is one thing, but what may happen. I mean, what if the federal
4 government does determine that it's going to be operating? Why
5 wouldn't we want to make a recommendation to federal, state, and
6 tribal governments, to be inclusive?

7 COMMISSIONER BIBLE: How about local governments?
8 Because one of those guys will start operating something.

9 CHAIR JAMES: So now we have everyone, federal, state,
10 tribal, and local.

11 COMMISSIONER BIBLE: How about just any form of
12 government?

13 CHAIR JAMES: Any form.

14 COMMISSIONER BIBLE: Any form of government.

15 CHAIR JAMES: We're back to any form of government.

16 COMMISSIONER BIBLE: Any form of governmental entity.

17 COMMISSIONER BIBLE: Move the question.

18 CHAIR JAMES: Any form of --

19 COMMISSIONER WILHELM: Of governmental gaming.

20 CHAIR JAMES: -- of governmental gaming. We don't want
21 to leave anyone out here.

22 COMMISSIONER BIBLE: And the implication here is that
23 there is a different relationship between the government and
24 citizens and between the commercial enterprises.

25 CHAIR JAMES: Certainly. So now the language is any
26 form of governmental agency.

27 COMMISSIONER WILHELM: Richard, it's only a capitalist
28 --

29 CHAIR JAMES: I will move -- will someone move the
30 question?

1 COMMISSIONER BIBLE: Move the question.

2 CHAIR JAMES: All in favor?

3 (Chorus of ayes.)

4 CHAIR JAMES: Any opposed?

5 (No response.)

6 CHAIR JAMES: Any abstentions?

7 (No response.)

8 CHAIR JAMES: Number eight, "the Commission recommends
9 that because states tend to become dependent on lottery revenues,
10 states should explore creative alternatives to the lottery so
11 that policy makers will have options to consider when and if
12 there is the desire to reduce or eliminate the lottery."

13 COMMISSIONER DOBSON: I will move that we accept this
14 nomination -- I mean this recommendation so that we can amend it.

15 CHAIR JAMES: Is there a second?

16 COMMISSIONER WILHELM: Is that an announcement?

17 COMMISSIONER BIBLE: How do you want to amend it?

18 COMMISSIONER WILHELM: How do you second it before you
19 know --

20 CHAIR JAMES: Before you know what the amendment is?

21 (Laughter.)

22 CHAIR JAMES: It has been moved, and it has been
23 properly seconded.

24 COMMISSIONER WILHELM: You're not replacing Mr. Bower
25 (phonetic), are you?

26 COMMISSIONER DOBSON: Politics is not my bag, believe
27 it or not.

28 CHAIR JAMES: It has been moved and seconded. We're
29 ready for the discussion.

1 COMMISSIONER WILHELM: That was an apt addition there
2 at the end.

3 (Laughter.)

4 CHAIR JAMES: It has been moved and seconded. We're
5 ready for discussion.

6 Commissioner Dobson.

7 COMMISSIONER DOBSON: Madame Chair, on 3.8 and 3.11 --
8 I think it's 3.11 -- I don't have any problem with the substance
9 of the two statements, but they're poorly worded, and I have a
10 better use of language, I think. May I read --

11 CHAIR JAMES: Certainly.

12 COMMISSIONER DOBSON: -- the suggestion for 3.8?

13 Again, I don't think this changes the intent.

14 "The Commission has concluded that states tend to
15 become dependent upon lottery revenues. Therefore, the
16 Commission recommends that the several states should explore
17 creative funding alternatives to the lottery so that policy
18 makers will have reasonable options to consider when and if they
19 do consider reducing or eliminating the state sponsored lottery."

20 The way it is written is just plain awkward to me.

21 COMMISSIONER BIBLE: Well, the mischief in the revision
22 is that creative funding alternative language where you could
23 read that as implying that you want to have them operate a casino
24 in Alcatraz or you want to have them do something different that
25 would still be in a gaming area.

26 I mean, if you want that absolutely wide open, I don't
27 think that's your intent, but that's certainly the way it reads.

28 CHAIR JAMES: Commissioner Leone.

29 COMMISSIONER LEONE: I think creative funding in the
30 context of governmental finance has a --

1 (Laughter.)

2 COMMISSIONER BIBLE: That's a given. That's a given.

3 COMMISSIONER LEONE: That's not a term ever used in the
4 form of praise for what a government is doing. So I think with
5 the same intent we probably would want to change that language to
6 I would argue more straightforward.

7 COMMISSIONER BIBLE: Yeah, they should explore
8 alternatives to using lottery revenues. There should be some
9 other options.

10 COMMISSIONER WILHELM: Kay.

11 COMMISSIONER DOBSON: Well, that concern you expressed
12 is also in 3.8 as it's now written.

13 COMMISSIONER BIBLE: That's right, and that's why I
14 circled language, "creative alternatives to the lottery." I
15 mean, I think you need to be a little bit more specific or else
16 you're going to be buying into whatever a state would do to
17 replace a lottery, and that may not be what you want to do.

18 CHAIR JAMES: Commissioner Wilhelm.

19 COMMISSIONER WILHELM: I think this whole
20 recommendation is off the track. It seems to me that it's not
21 the function of this Commission to get into the subject of,
22 particularly in such a vague way that doesn't really give anybody
23 any guidance -- I mean what does it mean to say, "Well, you
24 should be creative"?

25 I think that if we want to say various negative things
26 about lotteries or other forms of state run gambling, that's
27 fine, and we're in the process of doing that, but to sort of
28 preach in some way that doesn't actually provide any practical
29 guidance to state governments that they ought to look elsewhere,
30 if state governments conclude based on our recommendations or

1 based on the feelings of their citizenry or based on something
2 else that they're going to reduce the lottery, then obviously
3 they're not morons. They're going to recognize that they've got
4 to find either a substitute for that income or they've got to
5 reduce their expenditures, one or the other.

6 There's another recommendation back here someplace that
7 tells them they ought to go raise money some other way, which I
8 don't believe is our function as well. Maybe they're going to
9 decide to cut.

10 So I think this whole recommendation is irrelevant. I
11 have no problem with saying negative things about state run
12 gambling, and we're going that, but I do have a problem with
13 giving some general sort of preaching statement to the states.

14 CHAIR JAMES: Commissioner Lanni.

15 COMMISSIONER LANNI: I agree with John. I think we
16 lose our impact if we're going to make such nebulous
17 recommendations. I mean if the --

18 COMMISSIONER McCARTHY: If it's our intent, Madame
19 Chair --

20 CHAIR JAMES: Excuse me.

21 COMMISSIONER LANNI: I wasn't quite finished.

22 COMMISSIONER McCARTHY: Oh, I thought you were.

23 COMMISSIONER LANNI: No that's all right. You're used
24 to interrupting. It's all right. That's the advantage of having
25 been a former Speaker.

26 COMMISSIONER McCARTHY: But remember the operative word
27 there is "former."

28 CHAIR JAMES: Commissioner Lanni.

29 COMMISSIONER LANNI: The issue, I think, is we do
30 literally diminish our positioning when we're making

1 recommendations. If the proposer had specific recommendations as
2 to alternatives, I think those would be well worth considering,
3 but again, I share John's views on this.

4 CHAIR JAMES: Commissioner Leone.

5 COMMISSIONER LEONE: I think this recommendation or a
6 recommendation in this area is strongly rooted in our findings
7 about lotteries and about how regressive they are and about how
8 little evidence there is that they lead to increases in spending
9 where they are claimed to lead to increases in spending.

10 And I think the best way to deal with that is for us to
11 be straightforward and indicate that we see little evidence that
12 this is a desirable source of revenue for states and we urge
13 states to move away from it and leave it that.

14 How they do it, what they do about it, or whether
15 anybody pays any attention or whether it becomes a political
16 issue, as you know, I have some crackpot schemes along these
17 lines that didn't go anywhere.

18 But I think that we are in agreement that this is a
19 lousy way to raise money, and that states ought to move away from
20 it.

21 CHAIR JAMES: Commissioner McCarthy.

22 COMMISSIONER McCARTHY: Madame Chair, I was just going
23 to say I think this is one of those that if our friend Mr.
24 Dobson, Dr. Dobson, Commissioner Dobson, doesn't mind that we
25 pass temporarily for some further consideration down the line.

26 COMMISSIONER DOBSON: Well, I think we ought to discuss
27 it, and I really like what Richard said, that we don't tell them
28 how to accomplish this, but the whole purpose of that
29 recommendation is to express concern about the dependence of
30 states on the lottery and that they ought to move away from it.

1 CHAIR JAMES: Commissioner Wilhelm.

2 COMMISSIONER WILHELM: There's another one of these
3 that, I think, points up the lack of wisdom at least to me of
4 going down this particular road that 3.8 goes down. It's 3.39.
5 It says, "The Commission recommends that state and local
6 governments grant relief to taxpayers through reductions in the
7 present size and cost of government through a restructuring
8 privatization and other efficiencies prior to considering
9 lotteries."

10 Now, frankly, I don't think that the average state is
11 particularly interested in the views of nine people who convened
12 to study gambling about whether they should privatize, for
13 example. So I think these kind of things are going to diminish
14 our impact if we're going to have any impact anyway by going way
15 far afield of what we're allegedly qualified to recommend upon.

16 CHAIR JAMES: You wouldn't begrudge a good Republican
17 for trying thought, would you?

18 COMMISSIONER WILHELM: I don't mean to disagree with
19 this particularly. I just don't know where it comes from in
20 terms of our mandate.

21 CHAIR JAMES: Certainly. Why don't we do this?
22 Commissioner Dobson, could I ask that we table this one, see if
23 we can work on some language that could probably bring us all to
24 the table, and maybe table it for a little later?

25 COMMISSIONER DOBSON: I accept that.

26 CHAIR JAMES: Okay. Three, point, nine, "the
27 Commission recommends" -- so 3.8 has been tabled.

28 Three, point, nine, "the Commission recommends to
29 states with pari-mutuel gambling that they should restrict
30 wagering at racetracks to those who are at least 21 years old."

1 COMMISSIONER BIBLE: Well, I'll move the question, but
2 I believe it should be broader. It should be all forms of
3 gambling.

4 COMMISSIONER WILHELM: Isn't there a better one in here
5 someplace?

6 COMMISSIONER BIBLE: There is a better one.

7 COMMISSIONER WILHELM: Somewhere in here I think
8 there's a broader one on this subject.

9 COMMISSIONER LANNI: There is the one relative to
10 allowing on the facilities, but not in the wagering areas.

11 COMMISSIONER WILHELM: Well, there's that one. Isn't
12 there an even broader?

13 COMMISSIONER LANNI: There may be three. I know there
14 are two.

15 CHAIR JAMES: Why don't we do this? Why don't we act
16 on this one? When we come up to that one a little later on, if
17 we need to, we can replace it; we can add to it; we can amend it.

18 This one is before us right now. Do I hear a motion?

19 COMMISSIONER McCARTHY: Madame Chair, if I understand,
20 Commissioner Bible's recommendation, I second if it's a motion
21 that the 21 year old limit allowing gambling apply to all forms
22 of gambling, whether state sponsored or private sector sponsored.

23 COMMISSIONER BIBLE: That would be my intent.

24 COMMISSIONER McCARTHY: At any governmental level and
25 in the private sector.

26 COMMISSIONER BIBLE: And any form of gambling, broad
27 based.

28 COMMISSIONER LANNI: I think that can be accomplished,
29 and I would propose an amendment to delete the word or the term
30 "pari-mutuel" and "at racetracks." I think that accomplishes it.

1 COMMISSIONER BIBLE: Well, the recommendation has to be
2 to other than states. It also has to be to tribal governments
3 because they determine those age criteria.

4 COMMISSIONER McCARTHY: Federal government.

5 COMMISSIONER BIBLE: Federal government.

6 COMMISSIONER McCARTHY: Now or in the future.

7 COMMISSIONER BIBLE: Wherever gambling is operated.

8 CHAIR JAMES: So we would pick up the same language
9 that we used before in terms of all -- any form of -- well, any
10 government entity or any form of gambling? Who are you
11 recommending this to?

12 COMMISSIONER BIBLE: No, well, the controlling
13 authority will typically be the state where the states will set
14 the age for gambling either at the pari-mutuel facilities, if
15 they are casino facilities.

16 COMMISSIONER WILHELM: Or the tribes.

17 COMMISSIONER BIBLE: Well, but if it's tribes, it will
18 either be set through negotiations in the compacting process with
19 the state and tribes or in some cases the tribes may be operating
20 gambling without compacts where they would make those
21 establishments.

22 So the recommendation needs to go to whoever is the
23 appropriate level of government to set those age limits so that
24 they'd be 21.

25 COMMISSIONER WILHELM: Why don't we just say that we
26 recommend that gambling be limited to people who are 21 and
27 older?

28 COMMISSIONER BIBLE: That's fine. That's
29 straightforward.

1 COMMISSIONER WILHELM: We don't need to get into the
2 definition of authority.

3 COMMISSIONER LANNI: Madame Chair.

4 CHAIR JAMES: Commissioner Lanni.

5 COMMISSIONER LANNI: Maybe the motion would be "the
6 Commission recommends that all legal gambling should be
7 restricted to those who are at least 21 years of age."

8 CHAIR JAMES: Did you all get that? "The Commission
9 recommends that"?

10 COMMISSIONER LANNI: "That all legal gambling should be
11 restricted to those who are at least 21 years of age," and I
12 would put "years of age" in also.

13 COMMISSIONER DOBSON: For the record, Madame Chair,
14 3.49 is the other item that deals with this, and you know, I
15 think you indicated that we can consider related recommendations
16 later, but we can save ourselves some time if we are willing to
17 --

18 COMMISSIONER McCARTHY: Move the question.

19 COMMISSIONER DOBSON: -- bring those together.

20 CHAIR JAMES: Well, the question has been called. So
21 we have to vote on this particular one.

22 COMMISSIONER WILHELM: And are we voting on Terry's
23 last formulation?

24 CHAIR JAMES: We are voting on Terry's last
25 formulation. Terry, would you repeat it one more time for the
26 record?

27 COMMISSIONER LANNI: "The Commission recommends that
28 all legal gambling should be restricted to those who are at least
29 21 years of age."

1 CHAIR JAMES: The question has been called. All in
2 favor.

3 (Chorus of ayes.)

4 CHAIR JAMES: Any opposed?

5 (No response.)

6 CHAIR JAMES: Any abstentions?

7 (No response.)

8 CHAIR JAMES: Jim, I don't think that's particularly
9 problematic because when you get over to that other one, it
10 really has -- 3.49 has more to do with should not be permitted on
11 the grandstand or gambling viewing area. So that's a little more
12 specific, and we can vote on that one at that time.

13 COMMISSIONER DOBSON: I'm really talking about the
14 broader procedural question. If something comes up over and
15 over, it seems like a waste of time to me to deal with them one
16 at a time. If they all relate to the same issue, we ought to
17 bring them together, but that's your call, Madame Chair.

18 CHAIR JAMES: Well, I'm afraid we may miss something if
19 we try to start combining. I would love to do that.

20 COMMISSIONER BIBLE: But downstream --

21 CHAIR JAMES: Yes.

22 COMMISSIONER DOBSON: We can combine the two when we
23 talk about them.

24 CHAIR JAMES: Yes. That was 3.9. We're now to 3.10.
25 "The Commission recommends to states with pari-mutuel gambling
26 that they should discourage pari-mutuel facilities from expanding
27 with new forms of gambling and should inform the public that any
28 such expansion would essentially create a casino-like facility."

29 COMMISSIONER McCARTHY: Question of whoever's the
30 author of this. The words "should discourage" are perhaps -- I

1 don't understand them. The states have the authority to allow or
2 reject by statute. So if we're going to enact this, I think we
3 simply want to say that states should refuse to allow pari-mutuel
4 facilities to offer new forms of gambling.

5 COMMISSIONER WILHELM: I would like to suggest that
6 3.50 is a much better approach to this issue than is 3.10. The
7 reason I think it's a better approach is because I think it well
8 defines the choice that a state would be making.

9 CHAIR JAMES: Certainly. I have not heard a motion on
10 this one. It could die a quiet death.

11 COMMISSIONER WILHELM: Like some of the tracks.

12 CHAIR JAMES: Three, ten.

13 COMMISSIONER McCARTHY: Yeah, I would just to allow a
14 little flexibility, Madame Chair, I would not favor 3.50 because
15 it, in effect, does the reverse. It allows racetracks to have
16 casino styled gambling. It leaves it wide open. There's a basic
17 issue here of whether or not the special position of horse racing
18 in America -- and I think there's some merit to that -- that it
19 is an American tradition that is worth preserving and doing a
20 number of things to help. Whether or not we really begin to blur
21 that argument --

22 CHAIR JAMES: Well, what --

23 COMMISSIONER McCARTHY: -- destroy that argument by
24 allowing casino style gambling.

25 CHAIR JAMES: To keep us on track, what I need at this
26 point then is for someone to move 3.10.

27 COMMISSIONER McCARTHY: I'll move 3.10.

28 CHAIR JAMES: Do I hear a second?

29 COMMISSIONER DOBSON: I second.

1 COMMISSIONER McCARTHY: With the language change that I
2 proposed?

3 CHAIR JAMES: It has been moved and seconded. Now we
4 can accept amendments. Would you like to do an amendment to the
5 language, Commissioner McCarthy?

6 COMMISSIONER McCARTHY: Yes, please. That the
7 Commission recommends to states that they -- well, let's see.

8 CHAIR JAMES: "Should refuse" is what you said.

9 COMMISSIONER McCARTHY: They should refuse to allow
10 pari-mutuel facilities to offer other forms of gambling other
11 than horse racing.

12 COMMISSIONER BIBLE: And you want to support that
13 amendment to save the industry, to keep the purity of the horse
14 industry --

15 COMMISSIONER McCARTHY: Yes.

16 COMMISSIONER BIBLE: -- so that they don't have their
17 tracks cluttered up with --

18 COMMISSIONER McCARTHY: I believe that argument has
19 validity, and you'll recall the testimony we heard in Delmar.
20 There was a panel of six people. Half of them argued against
21 putting slot machines at racetracks, and the other half said,
22 "Gee, it may be necessary."

23 COMMISSIONER BIBLE: To me this is a zoning question.
24 It seems to me if a state is going to determine to expand
25 legalized gambling at a racetrack where you already have wagering
26 opportunities available and gambling opportunities available,
27 it's a logical place to allow it should the state choose to do
28 it.

29 COMMISSIONER WILHELM: Again, I think 3.50 is a much
30 better formulation of what a state ought to think about.

1 CHAIR JAMES: Well --

2 COMMISSIONER WILHELM: Again, I think it encompasses
3 Leo's point. So for that reason I would oppose 3.10.

4 CHAIR JAMES: At this point we have a recommendation
5 before us, and I want to make sure that we understand exactly
6 what it says: that the Commission recommends to states with
7 pari-mutuel gambling that they should refuse to allow pari-mutuel
8 facilities from expanding with new forms of gambling and should
9 inform the public that any such expansion would essentially
10 create a casino-like facility.

11 Commissioner Lanni.

12 COMMISSIONER LANNI: It would seem to me in our famous
13 five-to-four vote at the last meeting when we talked about the M
14 word, the moratorium, that that would cover this particular
15 matter, and to go further, I think it's further than we really
16 should.

17 These are state's rights issues, in my opinion, and
18 realize we're making recommendations to the states, but I think
19 it really flies in the face of the moratorium vote. The
20 moratorium vote was to stop, take a look, and evaluate what
21 you're doing before you want to bring any forms of gaming.

22 In addition, there are a number of states that already
23 allow this. The State of Delaware is one. There are others that
24 have afforded other people the opportunity for this, and now to
25 say that it should be restricted for others I think is a major
26 infringement upon people's rights.

27 CHAIR JAMES: Commissioner Leone.

28 COMMISSIONER LEONE: I think there's a lot of logic to
29 what Terry says. On the other hand, I think that a majority of
30 the Commission want to take the position that based on the

1 evidence, the testimony we've had and the way we've discussed
2 this and the way we've thought about it, that we would recommend
3 that states not see the introduction of machines or other style
4 gambling as something they need to do in order to save horse
5 racing.

6 And I actually think 3.50 is a better alternative
7 because it also allows for the fact that if the state has
8 legalized casinos and they, in effect, want to have one where
9 there's a racetrack, I can't say that's a bad decision versus
10 having one somewhere else if they're going to go ahead and do it,
11 but that they shouldn't be creating expanded gambling
12 opportunities simply to subsidize horse racing, which is a point
13 that I think we want to make explicitly.

14 And that carries right logically in a sense, but if we
15 want to make the explicit point, I think we have to make it or
16 it'll never get noticed.

17 COMMISSIONER McCARTHY: I said in the testimony at
18 Delmar, Madame Chair, to one of the witnesses, "Why don't you
19 have your racetrack apply for a casino license if that's what you
20 want to be?"

21 I was asking what percentage of your revenues -- as a
22 matter of fact, it might have been in your subcommittee, Bill,
23 when we were hearing from the folks at Churchill Downs and News
24 Corporation, Mr. Murdoch and AT&T and those folks that have come
25 together for betting from home and so on. I was trying to find
26 out whether betting from home would eventually be linked to not
27 just bets on horse races, but possible bets on slot machines or
28 video poker or other things, as well, something that troubles me
29 very, very much.

1 So I think some lines of definition -- if the
2 racetrack's ownership wanted to apply for a casino license,
3 that's fine. It's a straightforward question, and it can be
4 debated on that ground, but there is one set of policy
5 justifications for helping horse racing as an industry, and by
6 allowing casino stock gambling there with the rationale that
7 that's what we need to save the horse racing industry I think
8 really begins to destroy those lines.

9 COMMISSIONER BIBLE: Well, I think --

10 CHAIR JAMES: Excuse me just a minute, Commissioner
11 Bible.

12 Commissioner McCarthy, the problem, however, is that in
13 this particular recommendation as it stands, it would say the
14 Commission recommends to states with pari-mutuel gambling that
15 they should refuse to allow. It doesn't say that they have the
16 option of applying for a casino license.

17 And with that, I'll turn to Commissioner Bible.

18 COMMISSIONER McCARTHY: I certainly didn't intend to
19 preclude them from doing that.

20 COMMISSIONER BIBLE: What you in effect are saying is
21 refuse to allow that activity at the track regardless of whether
22 they apply for a license or whatever, and I think what you want
23 to do --

24 COMMISSIONER McCARTHY: Fine.

25 COMMISSIONER BIBLE: -- is make a --

26 COMMISSIONER McCARTHY: We can have someone write the
27 words of art. That's not -- if they want to apply for a casino
28 license in a state that permits casinos and become a casino
29 operation instead of a horse racing operation, I'm not raising
30 any objection to that.

1 COMMISSIONER BIBLE: I think what you want to make is a
2 finding that we don't subscribe to the argument that you need to
3 convert your track to a casino in order to survive economically.
4 I think that's what you're saying.

5 COMMISSIONER WILHELM: Isn't that what 3.50 says?

6 COMMISSIONER BIBLE: Three, five, oh would say
7 something like that. This one does not.

8 COMMISSIONER DOBSON: And I've got problems with 3.50.
9 So I agree we should wait until we get there.

10 COMMISSIONER LEONE: I think 3.50 is easier to amend
11 though.

12 COMMISSIONER BIBLE: Well, we need to do something with
13 this.

14 CHAIR JAMES: May I suggest we table 3.9?

15 COMMISSIONER McCARTHY: Madame Chair, may I make a
16 suggestion?

17 CHAIR JAMES: Commissioner McCarthy.

18 COMMISSIONER McCARTHY: I'm going to withdraw my
19 motion. I just heard Mr. Leone say he thinks that 3.50 might be
20 easier to amend when we get there and work with it. So I'll
21 withdraw my motion on 3.10.

22 CHAIR JAMES: So the motion has been withdrawn.

23 COMMISSIONER LANNI: Does the second have to agree with
24 that?

25 CHAIR JAMES: Yes. I want to know if --

26 COMMISSIONER DOBSON: I will accept that.

27 CHAIR JAMES: We will accept that. So that one has
28 died.

29 We'll go to 3.11. "The Commission recommends to states
30 with convenience gambling, such as video poker terminals in

1 neighborhood stores, because they provide fewer economic benefits
2 and higher social costs that more traditional forms of gambling
3 that states should adopt a moratorium on the spread of
4 convenience gambling."

5 Terry, there's that M word.

6 COMMISSIONER LANNI: I know.

7 CHAIR JAMES: Commissioner Dobson.

8 COMMISSIONER DOBSON: Madame Chair, this is the same
9 situation where I will move that we adopt it in order to discuss
10 it and make another recommendation.

11 CHAIR JAMES: Is there a second?

12 COMMISSIONER MOORE: Second.

13 COMMISSIONER McCARTHY: May I?

14 CHAIR JAMES: Commissioner McCarthy.

15 Commissioner Moore seconded. So we have a second and
16 we're open for discussion.

17 COMMISSIONER McCARTHY: Could I ask a question?

18 CHAIR JAMES: Yes, Commissioner McCarthy.

19 COMMISSIONER McCARTHY: We're on 3.11?

20 CHAIR JAMES: We're on 3.11.

21 COMMISSIONER McCARTHY: This pertains to states with
22 convenience stop gambling. What about states that don't have it
23 yet but may initiate it?

24 CHAIR JAMES: Commissioner Dobson, would you be willing
25 to change that to the Commission recommends?

26 COMMISSIONER DOBSON: But before we begin to --

27 CHAIR JAMES: Wordsmith it?

28 COMMISSIONER DOBSON: Yes, restate this, may I read the
29 suggestion --

30 CHAIR JAMES: Absolutely.

1 COMMISSIONER DOBSON: -- for the same thing said in
2 different ways? At least I think it's the same thing. When you
3 all get through with it, it may be very different.

4 (Laughter.)

5 COMMISSIONER LANNI: You've noticed that.

6 COMMISSIONER DOBSON: Yeah, yeah, and by the way, if
7 nominated, my platform will be the elimination of all gambling.
8 I wanted you to understand that.

9 (Laughter.)

10 COMMISSIONER WILHELM: Just that?

11 COMMISSIONER DOBSON: Yeah.

12 COMMISSIONER WILHELM: That's the only issue?

13 COMMISSIONER DOBSON: And John is going to be my VP,
14 right?

15 (Laughter.)

16 CHAIR JAMES: Jobs, more jobs.

17 COMMISSIONER WILHELM: There's got to be a broader
18 platform than that.

19 COMMISSIONER DOBSON: I've got a few other things in
20 mind. I'll talk to you about them.

21 The Commission has found that convenience gambling
22 outlets, such as video poker terminals in neighborhood stores
23 provide few economic benefits and generate higher social costs
24 than the traditional forms of gambling. Therefore, the
25 Commission recommends that states adopt a moratorium on the
26 approval of additional convenience gambling facilities.

27 There's the M word.

28 COMMISSIONER BIBLE: Do we have anything in our record
29 that indicates there's higher social costs in that form of
30 gambling than other forms of gambling? I don't know.

1 COMMISSIONER MOORE: I believe we heard some
2 testimonies.

3 COMMISSIONER BIBLE: Higher social costs in terms of
4 convenience gambling than other forms of gambling?

5 COMMISSIONER MOORE: I think the greatest incidence of
6 problem came out of the people that were interviewed in the
7 patron survey at tracks.

8 COMMISSIONER LANNI: It did.

9 COMMISSIONER WILHELM: Yeah, except that wasn't a
10 statistically valid sample.

11 COMMISSIONER BIBLE: But if you're going to make a
12 recommendation, you have to rely on something, I think.

13 CHAIR JAMES: Commissioner Wilhelm.

14 COMMISSIONER WILHELM: I apologize if I am being
15 repetitive here. I was listening to another point.

16 I agree that our record shows that there are fewer
17 economic benefits from so-called convenience gambling than there
18 is from at least destination resorts which is involved in some
19 other recommendations.

20 Intuitively it makes sense to me that there may be
21 higher social costs from convenience gambling, but my question is
22 whether our records demonstrate that.

23 If that's repetitive, I apologize.

24 COMMISSIONER BIBLE: Well, it would seem to me we ought
25 to take this issue and roll it globally into a number of issues
26 because we talk later on about recommending destination resort
27 type facilities and things of that nature, and we ought to come
28 out with one big recommendation in the area as to the nature and
29 type of gambling that we think is more appropriate than other
30 forms of gambling.

1 COMMISSIONER DOBSON: Madame Chair, the question has
2 been raised as to whether or not there was evidence to support
3 this one. I think we can fine it. We're going to have to take a
4 little while to locate it, but I believe we've heard that.

5 CHAIR JAMES: Would you like to table that one, Jim,
6 and come back to it?

7 COMMISSIONER DOBSON: Okay.

8 COMMISSIONER LEONE: Let me just make one last point on
9 this. The record is important, but it's not sacred text. When
10 the logic of a point or an argument leads us into a particular
11 direction, I don't think we should be afraid to follow logic. We
12 follow our feelings on other things.

13 The logic of the spread of gambling into neighborhoods
14 and into homes electronically is that it will lead to more
15 gambling and across a broader spectrum of gamblers.

16 COMMISSIONER BIBLE: No, and that's what I was saying
17 earlier. I think we --

18 COMMISSIONER LEONE: And I think there are going to be
19 ways to say that, and I agree. I think these recommendations we
20 might want to cluster around the subject of what we see logically
21 as the relative difference between a variety of different kinds
22 of gambling opportunities that we have over the United States.

23 COMMISSIONER BIBLE: And I think that makes sense.

24 CHAIR JAMES: And we'll see if we can figure some way
25 of clustering those.

26 Commissioner Wilhelm.

27 COMMISSIONER WILHELM: I agree with Richard's point. I
28 would say, however, that where we're proceeding on logic as
29 opposed to record, we ought to make that clear.

1 This particular formulation is a flat statement, and it
2 seems to me if we're going to make a flat factual statement, we
3 need to have a record. I'm not opposed to saying things that we
4 believe to be logical.

5 CHAIR JAMES: Yeah, and as we work through this, the
6 language that you may see come back may seem to say something
7 like, "In the opinion of this Commission," as opposed to based on
8 the NORC Table No. 571.

9 COMMISSIONER DOBSON: State it isn't so.

10 CHAIR JAMES: But it has been tabled, and we will
11 continue to work through that one.

12 Three, twelve.

13 COMMISSIONER LEONE: I'd just like to say to those of
14 you watching, this is why sausage factories are not open to the
15 public.

16 (Laughter.)

17 COMMISSIONER BIBLE: It's quarter to ten, and we're
18 just turning the page.

19 CHAIR JAMES: We've got a lot of work to do.

20 "The Commission recommends to state governments and the
21 NCAA that because sports gambling is popular among adolescents
22 and sometimes acts as a gateway to other forms of gambling that
23 the NCAA, together with state governments, should fund
24 educational and prevention programs designed to help the public
25 recognize the distinction between legal and illegal sports
26 gambling and the seriousness and consequences of illegal sports
27 gambling.

28 "Further, the Commission recommends that this effort
29 should include more public service announcements especially
30 during tournament coverage."

1 COMMISSIONER McCARTHY: Who's the author of that?

2 CHAIR JAMES: This came out of consensus language.
3 There isn't a specific.

4 COMMISSIONER McCARTHY: Let me ask a question, if I
5 may. If the basic thrust of this, considering the NCAA
6 correspondence and testimony, is to raise a deep concern about
7 the pervasive growth of gambling among young people on high
8 school and college campuses, I'm not sure I understand how the
9 language fits. "The public recognized the distinction between
10 legal and illegal sports gambling." What does that have to do
11 with that basic point?

12 It's certainly appropriate to point out that a very
13 high percentage of all sports gambling is illegal.

14 COMMISSIONER BIBLE: Probably 99 percent of it.

15 COMMISSIONER WILHELM: Well, and further -- correct me
16 if I'm wrong, Bill. You're our regulatory expert -- in the
17 states where sports gambling is illegal, isn't it illegal for
18 adolescents?

19 COMMISSIONER BIBLE: Yes. They still have the same age
20 restriction.

21 COMMISSIONER WILHELM: So that all adolescent sports
22 gambling is illegal.

23 COMMISSIONER BIBLE: Is illegal, correct.

24 CHAIR JAMES: Have I had a motion to adopt? I don't
25 think I have.

26 COMMISSIONER LANNI: No.

27 COMMISSIONER LEONE: May I ask a question? Is this the
28 only recommendation in this are? I've forgotten.

29 CHAIR JAMES: It is.

1 COMMISSIONER LEONE: So I would move it for the
2 purposes of discussion and change. We need a recommendation in
3 this area, I think.

4 CHAIR JAMES: Do I hear a second?

5 COMMISSIONER LANNI: I'll second that.

6 CHAIR JAMES: It has been moved and seconded.

7 COMMISSIONER DOBSON: Madame Chair.

8 CHAIR JAMES: Now we can discuss. Commissioner Dobson.

9 COMMISSIONER DOBSON: I would like to amend this
10 recommendation as follows. Go down to Line 3, gateway to other
11 forms of gambling, "that the NCAA, along with state governments,
12 should fund educational and prevention programs designed to," and
13 cut there and eliminate the rest of the statement and add this:
14 "warn adolescents and college students of the dangers of sports
15 gambling.

16 COMMISSIONER MOORE: I would second that, and being an
17 old high school coach and knowing how much America loves sports,
18 I believe that we need to say something to the American people
19 about the amount of gaming. They already know this, but it
20 wouldn't hurt for a national Commission to bring this to their
21 attention, and maybe it would get a few people's attention, not
22 all of course, but any number would help.

23 CHAIR JAMES: The seconder of the motion accepts your
24 amendment, Dr. Dobson.

25 COMMISSIONER DOBSON: Fine.

26 CHAIR JAMES: Yes, Commissioner Lanni.

27 COMMISSIONER LANNI: Are you going to vote on the
28 amendment or just leave it the way it is?

29 CHAIR JAMES: We're just going to leave it the way it
30 is.

1 COMMISSIONER LANNI: Then I have one other point. At
2 the Commission at Virginia Beach, I raised the issue with the
3 NCAA, which was not included in this recommendation, that I
4 thought they should have, and I really do believe this should be
5 amended, and I don't have the verbiage now, but I think it should
6 basically state that the NCAA has the responsibility of having
7 each of its member universities and colleges enter into an
8 agreement as to what kind of a program they would have and have
9 some kind of enforcement of that and disciplinary action if they
10 didn't because I think we're taking the universities and colleges
11 off the hook here, and that's wrong.

12 COMMISSIONER MOORE: I think 100 percent I agree.

13 CHAIR JAMES: Jim, would you mind adding that to your
14 motion?

15 COMMISSIONER DOBSON: I would agree to it. Terry, why
16 don't you provide the language to add to it?

17 COMMISSIONER LANNI: Could we put a hold on it then?

18 CHAIR JAMES: Do you want to table that one while you
19 work on the language and we can just vote these through?

20 COMMISSIONER DOBSON: All right.

21 COMMISSIONER WILHELM: As long as somebody's going to
22 look at it again. I don't know if this other point that I had
23 likewise raised in Virginia Beach belongs here or in the future
24 research section, but I had also raised the point that it seems
25 to me that since most of America's research capability resides in
26 universities, that they ought to do research on the question of
27 adolescent gambling.

28 CHAIR JAMES: As you work on that language, can you see
29 if you can include that, the research?

1 COMMISSIONER LANNI: Well, wouldn't that go under the
2 research section?

3 CHAIR JAMES: It could go there or it could go here.

4 COMMISSIONER LANNI: With the other 972 recommendations
5 on research?

6 (Laughter.)

7 COMMISSIONER DOBSON: Is that a veil of criticism?

8 COMMISSIONER LANNI: No, no. I would just suspect
9 they're going to be raising the federal income tax rate to 50
10 percent to cover this cost.

11 (Laughter.)

12 COMMISSIONER LANNI: And I would be opposed to that.

13 CHAIR JAMES: We have too many Republicans here.

14 COMMISSIONER LANNI: There are never enough
15 Republicans.

16 CHAIR JAMES: Let's see. We have -- Terry, let's go
17 ahead and see if we can include the research one here because
18 it's specific to the NCAA. That one has been tabled.

19 We'll move to 3.13. "The Commission recommends that"
20 --

21 COMMISSIONER DOBSON: Excuse me, Madame Chair.

22 CHAIR JAMES: Certainly.

23 COMMISSIONER DOBSON: The suggested amendment as I
24 stated it was passed; is that right?

25 CHAIR JAMES: No. We tabled it so that you could work
26 on the language to include those two points, and then we will
27 vote on it.

28 COMMISSIONER DOBSON: All right. That's good.

29 CHAIR JAMES: Three, thirteen, "the Commission
30 recommends that the American Gaming Association should be

1 commended for its efforts so far to promote advertising controls
2 through voluntary guidelines and should be encouraged to continue
3 such efforts. The AGA has acted responsibly in beginning to
4 address the needs for controls on advertising practices by
5 publishing voluntary guidelines for casino marketing and
6 advertising.

7 COMMISSIONER DOBSON: Madame Chair, where in the world
8 did that come from?

9 COMMISSIONER BIBLE: The AGA, obviously.

10 (Laughter.)

11 COMMISSIONER DOBSON: They obviously have three
12 separate statements like this.

13 COMMISSIONER BIBLE: I think as a policy matter we
14 probably don't want to start praising one group over another
15 group. We've heard a lot of very fine, dedicated groups.

16 CHAIR JAMES: I'm just waiting to hear who's going to
17 make that motion.

18 COMMISSIONER LANNI: It hasn't been moved. So I think
19 we can move on.

20 CHAIR JAMES: It hasn't been moved.

21 COMMISSIONER McCARTHY: Madame Chair, I agree with what
22 Mr. Bible said, but I'd say there's another area where at least a
23 comment is appropriate, which is the \$8 million put into research
24 by the AGA, and I do have a sentence on that in the introductory
25 text, which is not before the Commission this morning, but I
26 agree with what Mr. Bible said on this.

27 CHAIR JAMES: In the interest of time, hearing --

28 COMMISSIONER McCARTHY: Let's move on.

29 CHAIR JAMES: -- no motion, we're going to move right
30 on.

1 COMMISSIONER WILHELM: May I ask a question about the
2 next item?

3 CHAIR JAMES: Yes, yes.

4 COMMISSIONER WILHELM: It's just a procedural question.
5 My recollection of 3.14 is that it was cast as a piece of text as
6 distinguished from a recommendation. Am I right in remembering
7 it that way?

8 So I was surprised to see it show up here.

9 CHAIR JAMES: Yeah, it was a piece of text. It was
10 inappropriate to be here.

11 Let's move on. Three, one, five.

12 COMMISSIONER BIBLE: You just saved about two hours.

13 (Laughter.)

14 COMMISSIONER WILHELM: We're going to have a moratorium
15 on discussing this matter.

16 CHAIR JAMES: Three, fifteen.

17 COMMISSIONER LEONE: Can I just make a --

18 CHAIR JAMES: Oh.

19 COMMISSIONER LEONE: No, not about this.

20 I think when we conclude our recommendations presumably
21 the overview will be recast to reflect the thrust of -- important
22 language will be retained, but I think it will be recast.

23 COMMISSIONER BIBLE: But certain components may be
24 modified?

25 COMMISSIONER LANNI: That's right. That's been my
26 point for a number of months.

27 CHAIR JAMES: Absolutely. Three, one, five, "the
28 Commission recommends that all gambling operations, including
29 tribal and non-tribal casinos, state lotteries and pari-mutuel
30 tracks, voluntarily adopt and then follow enforceable advertising

1 guidelines or code of conduct. Enforcement should include a
2 mechanism for recognizing and addressing any citizen complaints
3 that might arise regarding advertisements.

4 COMMISSIONER BIBLE: In all deference to J.W., it would
5 seem to me that if you voluntary adopt it, you can't make them
6 enforceable.

7 COMMISSIONER WILHELM: I disagree with that.

8 COMMISSIONER BIBLE: Really?

9 COMMISSIONER WILHELM: Yeah. I think a lot of
10 voluntarily adopted codes of conduct have enforcement mechanisms
11 in them. I mean just as an example --

12 CHAIR JAMES: Just to move this along, do I hear a
13 motion on that one and a second?

14 COMMISSIONER MOORE: I'll make one.

15 CHAIR JAMES: So moved. Do I hear a second just to
16 bring it up for discussion?

17 COMMISSIONER WILHELM: I'll second it.

18 CHAIR JAMES: It's been properly moved and seconded.
19 Discussion now.

20 COMMISSIONER WILHELM: Do those initials imply that I'm
21 supposed to have made this recommendation?

22 COMMISSIONER LANNI: That's right.

23 COMMISSIONER WILHELM: Well, if, in fact, I made this
24 recommendation, then I think it's somewhat wrongly --

25 CHAIR JAMES: Worded?

26 COMMISSIONER WILHELM: -- worded in that it seems to me
27 if we're going to go down this road, which I think we should, by
28 the way, that the phrase "all gambling operations" or something
29 of that kind is appropriate, but the phrase "including tribal and
30 non- tribal casinos, state lotteries, and pari-mutuel tracks" is

1 hardly inclusive. So it seems to me we ought to just say all
2 gambling operations or all gambling facilities or something like
3 that, and then leave out the list because the list is much longer
4 than that.

5 CHAIR JAMES: Right.

6 COMMISSIONER LANNI: And may I recommend that for each
7 instance where we have that reference that we have similar
8 language in different recommendations so that we're consistent?

9 COMMISSIONER DOBSON: It seems a little wishy-washy to
10 me with regard to the voluntary aspect of this. I think there
11 needs to be an outside agency to provide oversight in this area.

12 COMMISSIONER BIBLE: Well, I think the difficulty is
13 going to be the state of federal law. We had quite a bit of
14 testimony as to ongoing litigations. The Supreme Court has just
15 heard arguments coming out of New Orleans. AT least everybody
16 seems to anticipate that they're going to overturn the bans on
17 advertising commercial gambling activities because of the
18 exemptions granted to both tribes and lotteries.

19 So I think if you're going to make a recommendation,
20 you want to make a recommendation that presumes that that
21 advertising prohibition is going to be either weakened or
22 eliminated and have some recommendation that indicates, as this
23 does, that you have codes of conduct for advertising and have
24 truthfulness in the advertising and a number of areas like that.
25 A much broader and more general statement, I think, would be
26 appropriate.

27 You know, back to my original question, I do think you
28 have a difficulty if people voluntarily agree to some code of
29 conduct to make an enforceable mechanism because you don't have a
30 governmental entity that can let it be fines and issue cease and

1 desist orders. You can kick the person out of the association,
2 and they can get out of the association, but it becomes more
3 difficult to enforce it.

4 CHAIR JAMES: I think I heard John's "uh" before I
5 heard your "uh." So John.

6 COMMISSIONER WILHELM: I certainly don't have any --
7 I'm not wedded to this, if indeed I proposed it.

8 (Laughter.)

9 COMMISSIONER WILHELM: And I don't disagree with the
10 first half of what Bill just said . On the particular point of
11 whether voluntary codes of conduct can be enforceable, I believe
12 that they can. Our union, for example, has a voluntarily adopted
13 code of ethics which has an independent board that has
14 enforcement powers and that has actually quite draconian powers.
15 That may not be an exact parallel, but I believe that it is
16 possible to create a significant enforcement mechanism for
17 voluntarily adopted codes, and the truth is, as Bill said,
18 regardless of how we catch this thing or how broad it is or
19 whatever, the truth is that for legal reasons I don't know that
20 there's another option besides voluntarily adopted codes of
21 conduct.

22 Tribes could legislate as to their own particular tribe
23 something in this area. States could legislate as to their own
24 particular state something in this area. I don't believe the
25 federal government could legislate as to the states in this area,
26 and I think that it's clear that very shortly the Supreme Court
27 will make it illegal for anybody to legislate as to private
28 entities.

29 COMMISSIONER BIBLE: I want to make two points. The
30 first is I do not believe that the legal issues are settled or

1 are likely to be settled. I believe that all advertising about
2 gambling, apart from that which is about the recreation aspects,
3 like Wayne Newton's going to be here, is inherently bait and
4 switch advertising, which is a well understood area of consumer
5 fraud in which someone is told they can come buy a Buick for \$99.
6 They get there and they say, "Oh, we only had one of those Buicks
7 for \$99. We've got 1,000 for \$29,000. Do you want to buy one of
8 those?"

9 And I think that advertising that features winners
10 probably should be classified as bait and switch advertising.
11 That's a personal view, not supported at this point by any
12 successful legal challenges, but I just want to be on the record
13 as saying that.

14 Secondly, on the question of self-regulatory behavior
15 and sanctions, that is well established in our society. Indeed,
16 in the professions, physicians, lawyers, accountants, in the
17 securities business, the exchanges, and the registered
18 representatives, the brokerage houses, all operate under codes of
19 conduct, including codes of conduct and, indeed, sensationally in
20 many cases that involve advertising and impose sanctions on their
21 members. Frequently you have arbitration procedures, or they
22 have boards or panels.

23 And so we have in this society a great many places
24 where there is no particular federal or state statute on the
25 books, but where the behavior of hundreds of thousands of active
26 people who are out trying to make a living is modified by
27 voluntary codes of conduct.

28 I'm sure Dr. Moore could talk about some of that. I'm
29 sure Leo or any attorney could talk about the way the Bar

1 functions. I could talk about the way the securities exchange is
2 functioned.

3 So I don't think that in concept this is impossible at
4 all. I think if this isn't John's idea, it ought to be because I
5 think we can make progress, and I think this ought to be
6 attractive to the industry, going back to something we did not
7 make into a recommendation. The industry has shown foresight
8 about the pathological gambling. I think it should show
9 foresight about more of this voluntary code of conduct, and in
10 some cases it has.

11 So I think it's a good recommendation. Maybe the
12 language needs to be slightly modified, but I think it ought to
13 be in here.

14 CHAIR JAMES: Can you tell us where that came up in our
15 discussion? We want to give credit where credit is due.

16 COMMISSIONER WILHELM: By the way, I don't mind being
17 its author.

18 CHAIR JAMES: But if there's better language in the
19 discussion, we --

20 COMMISSIONER McCARTHY: The heart of the
21 recommendation, Chair. Is that what you're asking?

22 CHAIR JAMES: Yeah. What was the heart of it? What
23 was the discussion?

24 COMMISSIONER McCARTHY: It was during the panel
25 discussion.

26 MS. SPILDE: I believe this makes sense in a number of
27 areas recommending to the commercial entities and the states
28 with respect to their lotteries and to the tribes with respect to
29 their gambling sections for voluntary enforceable codes of

1 conduct are enforceable by those who set the voluntary guidelines
2 with respect to advertising.

3 CHAIR JAMES: It seems like the heart of it is there.
4 We may need to work on the language a little bit.

5 What stands before us right now for our consideration
6 for a vote is, "The Commission recommends that all gambling
7 operations" -- take out the language that is there --
8 "voluntarily adopt and then follow enforceable advertising
9 guidelines or codes of conduct. Enforcement should include a
10 mechanism for recognizing and addressing any citizen complaints
11 that might arise regarding advertisements."

12 That's how it stands right now.

13 I will go to Commissioner McCarthy and then
14 Commissioner Dobson.

15 COMMISSIONER McCARTHY: I just remembered where some of
16 this discussion occurred. When we had the panel on advertising
17 and different representatives of the industry, we had a couple of
18 lawyers there, and they were talking about the stream of court
19 decisions that affected this, and as to the private sector it was
20 one thing, and I think Mr. Wilhelm referred to this earlier.

21 It looks like no governmental regulation of advertising
22 will be allowed in the future, but we also had discussion about
23 no non -- of private sector, but we also had some discussion
24 about the regulation of advertising by governmentally owned and
25 operated gambling, and that was a separate issue, and the same
26 witnesses said that there were cases that said that was
27 permitted.

28 So if we're going to consider this --

29 CHAIR JAMES: We are considering it.

1 COMMISSIONER McCARTHY: -- I think we need to have it
2 done in two separate items, one affecting private sector, one
3 affecting government owned and operated gambling, because --

4 COMMISSIONER BIBLE: That refreshes my memory because
5 we had asked that panel to provide us, and I don't know if they
6 had done so, their analysis as to whether you could extend the
7 same sort of restrictions that apply to commercial advertising to
8 governmental advertising for lotteries and tribal gaming. I
9 don't remember if they provided us that or not because there are
10 certain protections in terms of federal acts, truth in
11 advertising, things of that nature.

12 CHAIR JAMES: Leo, how would that be worded if you did
13 separate the two of them out?

14 COMMISSIONER McCARTHY: May I make a suggestion that
15 this is one of those we table temporarily? Give us a chance to
16 work on it if that's amenable to John and everybody else.

17 CHAIR JAMES: Are you going to work on that language?
18 Would you do that?

19 COMMISSIONER McCARTHY: I'll work on it on the
20 governmentally operated. I think the wording here is very close
21 to what you want. I agree with the thrust of what --

22 CHAIR JAMES: But the amendment -- but it would have to
23 incorporate both of those.

24 COMMISSIONER McCARTHY: Or that would be a separate
25 item.

26 CHAIR JAMES: Commissioner Dobson?

27 COMMISSIONER DOBSON: How do we handle my amendment?
28 Was that a motion to table?

29 CHAIR JAMES: He did not make a formal motion to table.

1 COMMISSIONER DOBSON: All right. I have a motion that
2 I would like to make to change the language according to the
3 voluntary issue that I raised. I don't believe this will work
4 without an independent agency, and I would like to change the
5 language when we're ready to do that.

6 COMMISSIONER WILHELM: Big brother again.

7 COMMISSIONER McCARTHY: May I just respond? I think
8 that's an impossible idea, Jim. I don't think that governmental
9 regulation of advertising, that is, free speech, is going to be
10 allowed. I don't know what governmental monitor you have in
11 mind.

12 COMMISSIONER DOBSON: Well, I don't --

13 COMMISSIONER McCARTHY: We're talking about private
14 sector advertising.

15 COMMISSIONER DOBSON: I don't think we should
16 presuppose what the Supreme Court is going to do. We have
17 assumptions about that, but we don't know what it's going to be,
18 and I don't think we ought to change what we would recommend on
19 the basis of that.

20 CHAIR JAMES: Jim, may I suggest there is a suggestion?
21 I don't know if it's been formalized yet, that we table that one
22 to work on the language, bring it back or would you like to go
23 ahead and call for the vote on this?

24 COMMISSIONER DOBSON: I would simply like to be part of
25 that --

26 CHAIR JAMES: Discussion?

27 COMMISSIONER DOBSON: No, that rewriting assignment.

28 CHAIR JAMES: Can I ask you and Leo to work on that
29 together?

1 COMMISSIONER DOBSON: That'll be a stretch, but we'll
2 work on it.

3 (Laughter.)

4 COMMISSIONER BIBLE: But also, Jim, for your benefit, I
5 don't think you necessarily predispose what the Supreme Court is
6 going to do, but if the Supreme Court goes one way your
7 recommendation has no force and effect, and I think you want to
8 craft a recommendation that may accommodate whichever way they
9 go.

10 COMMISSIONER DOBSON: You know, there are many items
11 that we're going to recommend that somebody may pass a law about.
12 So I still think we ought to say what we think ought to be done.

13 CHAIR JAMES: Well, I'm going to see if you and Leo can
14 do a good putt at that and come back to us.

15 COMMISSIONER WILHELM: Jim, as the third member of the
16 Research Committee, I take exception to your statement. It's not
17 at all a stretch for you and Leo to work together. You've done
18 so well for a year and a half.

19 COMMISSIONER DOBSON: Only because you were there to
20 mediate, John.

21 COMMISSIONER WILHELM: Right, yeah, sure.

22 CHAIR JAMES: Such wonderful negotiating skills of
23 yours, John.

24 COMMISSIONER WILHELM: Yeah, right.

25 CHAIR JAMES: Three, sixteen, "the Commission
26 recommends that the federal government establish a centralized
27 informational office of some sort that would collect data on all
28 state, local, tribal and federal gambling operations in the
29 United States."

30 Now, we have the opportunity to work on that.

1 COMMISSIONER LEONE: I would like to suggest that we
2 consider this information question in the context of the
3 extensive research, additional research and reporting
4 recommendations which are further down in the report.

5 COMMISSIONER LANNI: Is that a withdrawal?

6 COMMISSIONER LEONE: Yeah, but it clearly would --

7 COMMISSIONER BIBLE: But I don't think you want to lose
8 the notion of the concept because I think it's important --

9 COMMISSIONER LEONE: No, no.

10 COMMISSIONER BIBLE: -- that a central agency where you
11 can find an agency that has that information.

12 COMMISSIONER LEONE: That basic information. I agree,
13 but I think it fits in however we phrase these other
14 recommendations.

15 CHAIR JAMES: Leo, can I just ask you to make a note
16 that as we go through this process if we somehow -- Richard. I'm
17 sorry -- if we somehow miss that, that we come back to that?

18 COMMISSIONER WILHELM: Well, if I could just add a
19 point to what Richard has just said, it seems to me that we ought
20 to think about what it is we're asking the federal government to
21 do by way of resources. It's fine to submit to the federal
22 government a list of 8,412 things that it ought to do, but I
23 think that if we make that list overly expansive, that the
24 reality is that it isn't going to do anything.

25 So I, for one, would be much more interested in
26 thinking about recommendations that, for example, there's one in
27 here someplace that I think originated with you, Kay, where you
28 suggested adding certain items to the already existing household
29 survey. Now, that makes a lot of sense to me because that can
30 probably be accomplished without an enormous amount of cost.

1 It's adding a factor to something that the federal government
2 already does.

3 To the extent that we believe that the federal
4 government will make additional significant resources available
5 in the area of gambling, I would think that that ought to be
6 concentrated on two areas.

7 First and foremost, the question of research about
8 problem gambling and things related to that, of which we have
9 huge numbers of recommendations here, and secondly, functions in
10 areas where only the federal government can do it, as an example
11 the collection of the recommendations from the Indian Gambling
12 Subcommittee about the collection and aggregation and publication
13 of certain kinds of data related to tribal gambling.

14 So I really hope as we look at all of these that we can
15 focus on those things that (a) only the federal government can
16 realistically do, and (b) some reasonable stab at what the
17 federal government realistically might actually do.

18 Because if we throw too many recommendations at too
19 great of a cost here, we're going to end up with nothing.

20 CHAIR JAMES: There has not been a motion. We're
21 moving to 3.17.

22 "The Commission recommends that the Congress should
23 delegate to the appropriate federal agency the task of annually
24 gathering data concerning lottery operations in the United
25 States, including volume of purchase, demographics of lottery
26 players and patterns of play by demographics, nature, content,
27 accuracy, and type of advertising, spending regarding problem
28 pathological gamblers, spending on regulation, and other relevant
29 matters."

30 Is there a motion?

1 (No response.)

2 CHAIR JAMES: No motion?

3 COMMISSIONER DOBSON: NO, no. Yes.

4 CHAIR JAMES: It has been moved. Is there a second so
5 we can have a discussion?

6 COMMISSIONER WILHELM: Ditto my last comment.

7 CHAIR JAMES: Okay. Is there a second?

8 (No response.)

9 CHAIR JAMES: Hearing none, we'll move on to 3.18.
10 Perhaps we can roll that one in and come up with one.

11 "The Commission recommends that states and tribes
12 require that all gambling facilities, not just casinos, adopt
13 formal written policies and procedures to train their respective
14 staff members to identify and then to channel problem and
15 pathological gamblers, customers, as well as employees to
16 appropriate treatment facilities."

17 Is there a motion?

18 COMMISSIONER BIBLE: It makes sense. I'd move it.

19 CHAIR JAMES: Is there a second?

20 COMMISSIONER WILHELM: Second.

21 CHAIR JAMES: Okay. Why don't we let the record
22 reflect that Commissioner Bible moved and Commissioner Wilhelm
23 seconded.

24 We're ready for discussion.

25 COMMISSIONER WILHELM: Just a tiny stylistic point.

26 CHAIR JAMES: Yes.

27 COMMISSIONER WILHELM: Going back to what we were
28 discussing earlier, we need some, as I think Terry pointed out,
29 we need some consistent way of referring to the concept of all
30 gambling facilities, and just as I didn't think we should say

1 "including X, Y, and Z," because it's not exhaustive, I also am
2 not really attracted to saying not just.

3 I understand the purpose of that, and it was well
4 intentioned, but if the phrase is going to be "all gambling
5 facilities" or if there's a better one, let's use that
6 throughout.

7 CHAIR JAMES: Okay. Commissioner McCarthy?

8 COMMISSIONER McCARTHY: Yes. I like this. The only
9 thing I would point out now is that we probably need to clarify
10 what we mean by appropriate treatment facilities, and later on,
11 Madame Chair, I do have some language that would be related to
12 this. It doesn't necessarily contradict this. I just want to
13 raise that point.

14 COMMISSIONER WILHELM: Well, on that point though, it
15 may be that rather than saying they should channel people to
16 appropriate treatment facilities, maybe they should say something
17 like appropriate sources of help or something like that.

18 CHAIR JAMES: Appropriate treatment.

19 COMMISSIONER BIBLE: Make appropriate arrangements for
20 help or something of that nature.

21 COMMISSIONER WILHELM: Well, you know, as an example,
22 maybe they would be referred to either a state agency or the
23 local National Council. Those are not treatment facilities per
24 se, but they are sources of finding help.

25 CHAIR JAMES: Would not just removing the word
26 "facilities" --

27 COMMISSIONER MOORE: That's what I was thinking.

28 CHAIR JAMES: -- take care of that?

29 COMMISSIONER MOORE: "Appropriate treatment," that'll
30 do it.

1 COMMISSIONER McCARTHY: Yeah, this function is an
2 extremely important one, and that's why I'm urging that when we
3 talk about appropriate facilities that we not leave it too
4 nebulous or undefined, and that's why I was hoping even if we
5 adopt this section we could just leave open the issue of
6 appropriate treatment facilities for further discussion down the
7 line.

8 COMMISSIONER BIBLE: Well, appropriate facilities
9 implies in-patient, and I don't think that's what you want to.

10 CHAIR JAMES: Yeah. You just want to say appropriate
11 treatment, and if necessary, when we do the document we can say,
12 "See so-and-so," and refer them to an appropriate place in the
13 document.

14 COMMISSIONER McCARTHY: That's fine.

15 CHAIR JAMES: All right. Commissioner Lanni?

16 COMMISSIONER LANNI: The concern I have, and
17 philosophically I certainly support this, the concern I have is
18 what is the capability of teaching all staff members to be able
19 to identify problem and pathological gamblers. That's a long,
20 long stretch to have people do that.

21 I think it's something I'd morally support, but just
22 from a practical standpoint I'm not so sure you can train your
23 entire staff of thousands to identify.

24 COMMISSIONER McCARTHY: Good point.

25 COMMISSIONER LEONE: I was going to raise the same
26 point. I think it also would dilute its practical effect because
27 a program that was designed for everybody would probably not be
28 -- I think we're really talking about establishing a program that
29 creates the staff capacity to do these things. Exactly how it
30 gets done would depend.

1 I mean if you're talking about a big hotel complex,
2 it's one thing. If you're talking about somebody who operates
3 five machines in a convenience store, it's another kind of
4 training.

5 CHAIR JAMES: Commissioner Dobson?

6 COMMISSIONER DOBSON: No, didn't ask.

7 CHAIR JAMES: Oh, okay. Is there anyone down here?

8 It doesn't say train all their employees, and so it's
9 entirely appropriate that whoever is the appropriate staff
10 person--

11 COMMISSIONER DOBSON: Well, we could say appropriate
12 staff member.

13 COMMISSIONER LANNI: That will work instead of
14 respective.

15 CHAIR JAMES: Would that take care of it, "appropriate
16 staff"?

17 COMMISSIONER McCARTHY: May I -- I'm sorry. What was
18 the language you just -- appropriate?

19 CHAIR JAMES: Appropriate staff.

20 COMMISSIONER McCARTHY: We're going to just cut
21 "appropriate staff"?

22 CHAIR JAMES: We're asking if you would accept that
23 amendment.

24 COMMISSIONER McCARTHY: Good.

25 CHAIR JAMES: "The Commission recommends that states
26 and tribes" -- well, it says "tribes." We're going to change
27 that language to reflect the continuity throughout the document
28 -- "that all gambling facilities" -- we've excluded not just
29 casinos -- "adopt formal written policies and procedures to train
30 their appropriate staff members to identify and then to challenge

1 problem and pathological gamblers, customers, as well as
2 employees to appropriate treatment."

3 COMMISSIONER McCARTHY: Madame Chair, may I just --

4 CHAIR JAMES: Certainly.

5 COMMISSIONER McCARTHY: Dr. Kelly has not distributed
6 yet, but there is to come before you -- it's actually part of the
7 next chapter on gambling and addiction -- a proposal. The
8 genesis of the idea I got from Commissioner Bible, as a matter of
9 fact, that says the Commission respectfully recommends the tribe
10 and state governments requires a condition of any gambling
11 facility's license to operate that each applicant will adhere to
12 the following: adopt a clear mission statement as to the
13 applicant's policy on problem pathological gambling; appoint an
14 executive of high rank to execute and provide ongoing oversight
15 of the corporate mission statement; contract with a state
16 recognized gambling treatment professional to train management
17 staff, to develop strategies for recognizing and addressing
18 customers whose gambling behavior may strongly suggest they may
19 be experiencing serious to severe difficulties; routinely consult
20 the customer profile database to monitor such patients' gambling
21 behavior history, and a couple more.

22 So it takes a total, integrated, comprehensive look at
23 this problem, and I know we're touching on a couple of the issues
24 in the matter we're on right now, but this one also would require
25 that insurance that makes available medical treatment for problem
26 and pathological gambling for facility employees being one of the
27 conditions of granting or renewing a license.

28 Mr. Lanni and I have had a couple of conversations with
29 this. I think he may have one or two questions about some of the
30 language when we get to this.

1 CHAIR JAMES: May I make this suggestion? Would
2 Commissioner Dobson be willing to table this one until we get
3 there to consider that?

4 COMMISSIONER DOBSON: So far we've got about two weeks
5 worth of work, but I will do that.

6 COMMISSIONER BIBLE: We're going to have the same
7 problem on 3.19.

8 COMMISSIONER WILHELM: Yeah, same problem.

9 COMMISSIONER BIBLE: In fact, it's the same issue. We
10 probably ought to just talk about the issue.

11 CHAIR JAMES: Do you want to go ahead and see if we can
12 combine all of those right now and consider this one, except the
13 Commissioners don't have it in front of them?

14

15 COMMISSIONER LEONE: I think 3.19 and 3.22 both are in
16 the same area. They're part of a package.

17 CHAIR JAMES: That's 18, 19.

18 COMMISSIONER LEONE: Twenty-two.

19 CHAIR JAMES: Twenty-two?

20 COMMISSIONER WILHELM: I think we ought to pass this
21 out and talk about it.

22 CHAIR JAMES: Leo, do you already have copies of it?

23 COMMISSIONER MOORE: Copies are on the way.

24 COMMISSIONER McCARTHY: Could we pass it for a few
25 minutes while --

26 CHAIR JAMES: Can we pass on this for a few minutes
27 while the staff gets copies?

28 Why don't we then go to 3.20? So we're going to hold
29 in 3.18, 19 and 22 while they get copies.

30 COMMISSIONER WILHELM: Can I ask a question about 3.20?

1 CHAIR JAMES: Certainly. Well, for the purposes of the
2 record, let me read it. "The Commission recommends that every
3 ATM machine within any gambling facility or any facility
4 adjoining a gambling operation should have daily cash access
5 restrictions.

6 COMMISSIONER WILHELM: My question is this. I realize
7 that once when we were walking through someplace -- I believe it
8 was Foxwoods -- someone made the assertion that there's ATM
9 machines that you can get all the money in the world out of.

10 Forgive my ignorance. Maybe I'm not in the right
11 income bracket or something. I thought that all ATM machines had
12 daily limits. Is that wrong?

13 COMMISSIONER DOBSON: John, I think that was an
14 extrapolation of something that I said. I observed at Foxwoods
15 that PIN numbers were not required. Remember our talking about
16 that?

17 COMMISSIONER WILHELM: Yeah.

18 COMMISSIONER DOBSON: And that there was a very high
19 fee, as I recall seven percent or some such thing, for the use of
20 those ATMs, if that's what you're referring to.

21 COMMISSIONER WILHELM: No, I'm referring to this
22 particular recommendation. It seems to me to be sort of
23 irrelevant if I'm right in understanding that all ATM machines
24 have --

25 CHAIR JAMES: Let's do this, John. Let's see if anyone
26 will move to adopt and get a second. If not, it's a moot point
27 to discuss it.

28 Is there a motion to adopt?

29 (No response.)

1 CHAIR JAMES: Hearing none, we will go on to 3.21. See
2 how easy this is if we just go on?

3 Twenty-one, "the Commission recommends" -- well, we do
4 have Leo's document in front of us now. It's the one that's
5 colored in blue, which it's the first of four that he has. You
6 will see 4.16, which I am told may have some bearing on 3.18, 19,
7 and 20 and 22.

8 COMMISSIONER McCARTHY: Madame Chair, the numbers are
9 not consecutive, although they should be taken because
10 Commissioner Loescher had a recommendation that's before us that
11 was given the number 4.17. So if you just switch 4.16 and 4.17,
12 they will be consecutively numbered, but they should be seen
13 together is my point.

14 COMMISSIONER MOORE: Is this going to take 3.19?

15 COMMISSIONER McCARTHY: Yes.

16 CHAIR JAMES: Since this is new for Commissioners and
17 they have not had a chance to read it, I'm going to ask for a
18 five-minute recess to give Commissioners time to look at this
19 information, and then we will come back for discussion at that
20 point.

21 We stand in recess for five minutes.

22 (Whereupon, the foregoing matter went off
23 the record at 10:22 a.m. and went back on
24 the record at 10:39 a.m.)

25 CHAIR JAMES: I'd like to ask the Commissioners to
26 please come back to their seats. I hope that each of you took
27 the opportunity during our break, to review the revision that was
28 prepared by Commissioner McCarthy. I'm going to break the
29 process just a little bit and, Leo, ask you to talk us through
30 this that we have in front of us, and remind Commissioners that

1 we also have the additional tally sheet so that we can keep track
2 with where we are. Commissioner McCarthy.

3 COMMISSIONER McCARTHY: Thank you, Madam Chair. I
4 would again ask that the Commissioners see these items on the
5 front and back of these two pages you've been given, see them as
6 taken together.

7 The first one, 4.16, attempts to have some kind of
8 integrated, thoughtful plan which gambling facility management
9 would utilize. And here we are not just talking about casinos
10 now, we're talking about all forms of gambling.

11 And as you will see as you look at the second section,
12 we're not just talking about private sector gambling, we're
13 talking about the same kind of rules for government-owned and
14 managed gambling.

15 An essential part of this, so that the other members of
16 the Commission know how this evolved, is Mr. Lanni and I had a
17 couple of conversations last week, and one of my concerns was
18 that there be some mechanism for the payment of medical treatment
19 to industry customers. And I'm not just talking about private
20 sector again, I'm talking also about government-owned and
21 operated gambling. And Mr. Lanni expressed deep concern out of
22 any requirement that private sector facilities be made to pay the
23 cost of gambling for customers, that that is not ordinarily done
24 in American industry.

25 So, as the conversation developed between the two of
26 us, Mr. Lanni suggested the gambling privilege tax. Now, it
27 already exists in some states, so what we are talking about here
28 is enacting it in those states that have not already adopted such
29 a tax, and then using the proceeds from that tax -- if you see
30 this again, taken all together, looking at 4.19 -- to contribute

1 those monies to a dedicated fund that would be used for the
2 purposes outlined in 4.19.

3 So, these concepts were taken together in our
4 conversation, and there are some word changes, I think, for
5 clarification that Mr. Lanni and I would both want to offer
6 jointly here in a minute, but that's how this evolved. I think
7 it's a very constructive proposal that touches on a number of
8 areas we are now discussing, in this chapter and a couple in the
9 next.

10 CHAIR JAMES: I can see that this would be very helpful
11 to our process if we could identify perhaps 30 or 40
12 recommendations that are already rolled in here --

13 COMMISSIONER McCARTHY: I think we will be able to,
14 Madam Chair.

15 CHAIR JAMES: -- could move right along. Could we go
16 ahead, before we consider this as a motion, and get your word
17 changes?

18 COMMISSIONER McCARTHY: Sure. Mr. Lanni appropriately
19 suggested, and Commissioner Wilhelm had earlier, that when we're
20 talking about listing tribal and state governments, we simply
21 make that clear in several places in this language. We're
22 talking about all governments.

23 CHAIR JAMES: So that would reflect the standard
24 language that we said we would adopt throughout.

25 COMMISSIONER McCARTHY: Yes. Also, on --

26 CHAIR JAMES: Excuse me just a minute. Doug, could you
27 take a shot at what that standard language would be, and maybe
28 later at some point in the day make that recommendation to us.

29 COMMISSIONER BIBLE: Yes. This will have to be a
30 little bit different because states will not license their own

1 lottery. That will be created by statutory amendment. I assume
2 you want --

3 COMMISSIONER McCARTHY: That's correct. That's why if
4 you look at 4.18, on the back of the first page, just in
5 recognition of what you said, bill, we attempt to get at it that
6 way.

7 COMMISSIONER BIBLE: Okay.

8 CHAIR JAMES: Could we go ahead and have your word
9 changes, Leo?

10 COMMISSIONER McCARTHY: Yes. The other word change
11 pertains to 4.19, the first line -- "Each state shall enact, if
12 it has not already done so" --

13 CHAIR JAMES: I'm sorry, Bill.

14 COMMISSIONER McCARTHY: "Each state shall enact", and
15 please insert the words "if it has not already done so. And Mr.
16 Lanni also proposed on the bottom of that page, the third line
17 from the bottom, the line that begins "Of treatment can receive
18 necessary supports based upon" and replace the words "a sliding
19 scale" with "financial need". Mr. Lanni's suggested wordage.

20 COMMISSIONER WILHELM: Shouldn't that be one or the
21 other?

22 COMMISSIONER McCARTHY: Yes. Mr. Wilhelm correctly
23 points out that we've got a redundant word, still the same
24 section, third line up at the top "such revenues/monies",
25 "revenues" was not deleted, it is supposed to be "such monies".
26 That's the only changes that Mr. Lanni and I are proposing at
27 this moment.

28 CHAIR JAMES: So we now have 4.16, 4.18 and -- do you
29 want to say anything about 4.19 -- 4.20 --

1 COMMISSIONER McCARTHY: 4.19 is the one we've been
2 discussing -- I'm sorry -- there was one more. On 4.20 --
3 because, again, the first line, how we reword that. This is the
4 back page of the second sheet. Same again there when we talk
5 about -- on the second line, after the words "telephone numbers"
6 should be "of at least two" -- pardon me -- not "of" - - "at
7 least two or more".

8 COMMISSIONER LANNI: No, we don't need "or more".

9 (Simultaneous discussion.)

10 COMMISSIONER McCARTHY: What did Mr. Lanni say? He's
11 the one that was making the suggestion.

12 CHAIR JAMES: You do need "of".

13 COMMISSIONER LANNI: "Of at least two", I don't think
14 you need "or more".

15 COMMISSIONER McCARTHY: "Of at least two", okay. "Of
16 at least two state approved providers", et cetera. And those are
17 the only changes, Madam Chair, that we have.

18 CHAIR JAMES: Commissioner Lanni?

19 COMMISSIONER LANNI: On the issue of 4.19, with the
20 first lines where you say "Each state shall enact, if it has not
21 already done so, a gambling privilege tax in all gambling
22 operations", and it would be used. The problem with that
23 language is, for example, in New Jersey, you have an 8 percent
24 gambling privilege tax, and I don't think we are suggesting they
25 take that entire 8 percent tax and apply it to problem and
26 pathological gambling, since it is already specifically
27 earmarked. So, it would either be a portion -- they have an 8
28 percent gaming tax on gaming revenues, and I don't think --

29 COMMISSIONER WILHELM: Maybe that would cure it, if it
30 makes sense to Leo, by starting the third line --

1 COMMISSIONER McCARTHY: This one, the last line maybe,
2 is where it should fit in here.

3 COMMISSIONER WILHELM: I was going to suggest "a
4 portion of such monies shall be used" --

5 COMMISSIONER McCARTHY: Yeah, that's fine. That's all
6 right.

7 COMMISSIONER BIBLE: So this would only be state
8 licensed operations, this would not apply to Tribal governments?

9 COMMISSIONER McCARTHY: No.

10 COMMISSIONER WILHELM: I was going to ask that
11 question.

12 COMMISSIONER McCARTHY: I want this to apply to
13 gambling operations as well as whatever the proportion would be
14 of -- you know, you're going to learn the need for treatment from
15 the prevalence studies that will be done, and other research, to
16 identify the number of pathological gamblers, the treatment
17 availability, so they'll have to base this on information that's
18 developed.

19 COMMISSIONER BIBLE: How do you apply the tax to Tribal
20 operations?

21 COMMISSIONER McCARTHY: To government operations?

22 COMMISSIONER BIBLE: Tribal, or do you. Maybe you
23 don't.

24 COMMISSIONER McCARTHY: We're asking the Tribal
25 government to adopt the tax themselves, or that this language be
26 introduced into a compact wherever there is a compact.

27 COMMISSIONER BIBLE: So this language "each state shall
28 enact" is somehow modified?

29 COMMISSIONER WILHELM: Well, Leo, a question in that
30 regard, was it your intention that 4.18, which requests tribes

1 and states to implement, or 16, do you also want them to
2 implement 4.19?

3 COMMISSIONER McCARTHY: That's correct. That's
4 correct. That's a good point. So we should add that -- "All
5 components of the recommendations in 4.16 or 4.18", whatever the
6 numbers end up being after our editor finishes.

7 COMMISSIONER WILHELM: 4.19 at the moment.

8 CHAIR JAMES: Well, what's the change now in the
9 current 4.18?

10 COMMISSIONER McCARTHY: Looking at 4.18, we want to
11 make sure that not only are the conditions of granting a license
12 by Tribal or state government added, but we want to make sure
13 when it comes to contributing to the fund that will be dedicated
14 to these purposes, that both Tribal and state governments
15 contribute to that in some fair proportionate way.

16 COMMISSIONER WILHELM: So it would say all components
17 of recommendations 4.16 and 4.19, is that what you're saying?

18 COMMISSIONER McCARTHY: Yes.

19 COMMISSIONER BIBLE: Procedurally, how do you do that
20 with Tribal governments? Are you recommending that IGRA be
21 amended so the states can tax the Tribes, because there's a
22 provision in IGRA now that provides states cannot tax Tribes.

23 COMMISSIONER McCARTHY: No, I'm really suggesting at
24 this point that states and Tribes come together and negotiate out
25 these differences, and I think Tribal governments will be
26 disposed to attack the problem of pathological gambler issue. My
27 impression is, from conversations I've had with some different
28 Tribes -- and Commissioner Loescher could certainly address this
29 more fully than I can -- is that they are very conscious of this
30 problem. They want to address the problem. And I think you're

1 going to see some setting some getting some good example as we
2 get into this, to try to figure out how to fund the treatment.

3 COMMISSIONER BIBLE: But when you get into the Tribal
4 subcommittee's recommendations, the Native American Gambling
5 Subcommittee's recommendations, there's a specific recommendation
6 there to amend IGRA so that states could, in effect, levy tax on
7 Tribal operations within their jurisdiction, as long as that tax
8 was not greater than tax for non-Tribal operations --

9 COMMISSIONER McCARTHY: Right.

10 COMMISSIONER BIBLE: -- and it be dedicated for the
11 treatment of problem gamblers.

12 COMMISSIONER WILHELM: I don't personally look upon
13 those as being inconsistent because no one has any way of knowing
14 whether, in fact, IGRA would be recommended to permit payments,
15 whether they are called taxes or whether they are called
16 contributions, or whatever you call them, by Tribes pursuant to a
17 state procedure. IGRA might or might not be recommended in that
18 regard. And so I don't think there is anything inconsistent
19 between that recommendation that you're referring to, Bill, and
20 the Indian Gambling Subcommittee report and Leo's. And it seems
21 to me, if I understood Leo right, that it makes sense to amend
22 4.18, at the end of the second line, to include both 4.16 and
23 4.19, which I think is where Leo was going with that. And I
24 don't think those are inconsistent.

25 COMMISSIONER LOESCHER: Madam Chairman.

26 CHAIR JAMES: Commissioner Loescher.

27 COMMISSIONER LOESCHER: Madam Chair, there's a couple
28 of things that you need to document. You've got quite a few
29 things going at once here. One thing is that I'm advised that
30 but for the Couer D'Alene Tribe, who wanted to take a look at

1 lotteries -- and they have since backed off from that position -
2 - Native Americans aren't involved in lotteries. And actually,
3 you know, all the way through this writing here, you have Native
4 Americans involved in lotteries, and I don't believe that is the
5 general case.

6 The other is that other points with regard to
7 contributions, one point you need to be aware of, one government
8 doesn't tax another government, that's fundamental in sovereignty
9 law. But I believe that Native Americans who accept the notion
10 that this business of the contribution for this purpose is
11 subject to compact negotiations, I believe that they would accept
12 that idea. So, if the language could be --

13 CHAIR JAMES: Should reflect that.

14 COMMISSIONER LOESCHER: -- reflect that, I think we
15 could reach an accommodation here.

16 CHAIR JAMES: May I suggest this. We were trying to
17 get at this point -- only specific word changes, and then we need
18 to go back in an orderly fashion and discuss each of these. Are
19 there any other word changes?

20 (No response.)

21 If not, then I think we should move for discussion,
22 starting with 4.16. Commissioner Wilhelm.

23 COMMISSIONER WILHELM: On Commissioner Loescher's
24 point, Bob, I think that if we were to adopt Leo's 4.18, as
25 amended, to include both 4.16 and 4.19, I believe -- and correct
26 me if I'm wrong -- that would be consistent with what you're
27 saying.

28 What 4.18 says, as Leo has drafted it, is, "The
29 Commission respectively recommends that Tribal and state
30 governments take the steps necessary to implement both of those

1 sets of recommendations, both for lotteries and for other forms
2 of legalized gambling -- and I think it's phrased that way to
3 cover both states and Tribes -- and then the last sentence makes
4 the point that I think you were just making, about compacts.

5 So, it would appear to me -- unless I'm missing
6 something -- that Leo's recommendations taken together are
7 consistent with what you are saying. I recognize there's some
8 phrasing in some of the Indian Gambling Subcommittee
9 recommendations that may need to be conformed on the tax issue --
10 and I think you are right about that, Bob -- but I think, unless
11 I am missing something, I think these are okay in that regard.

12 COMMISSIONER McCARTHY: I've tried to reflect in the
13 language of 4.18, Bob, just what you suggested.

14 COMMISSIONER LOESCHER: Okay. Well, we accept that if
15 the language can be conformed.

16 CHAIR JAMES: Commissioner Dobson.

17 COMMISSIONER DOBSON: I would like a clarification
18 again from Commissioner Loescher. I don't quite understand how
19 this would work if you have a compact arrangement with a Tribe.
20 And the revenues that are generated are not going to be used
21 specifically for treatment, but going into the general fund, that
22 looks a whole lot like a tax on the Tribe, rather than a tax for
23 a specific purpose, i.e., treatment. How do you get around that?

24 COMMISSIONER LOESCHER: Madam Chair, the negotiations
25 between Tribal governments and a state through their governor can
26 range over a whole wide area of issues, and I believe that Native
27 American Tribes have been a leader in dealing with pathological
28 problem gambling already, and contribute immensely large sums of
29 money now. What we are talking about here is developing a
30 program between states and Tribal governments and other entities

1 that allocate for research, allocate for treatment, allocate for
2 whatever, to make this work. And I think it would all be subject
3 to negotiation.

4 I believe that the Native Americans are ahead of the
5 game already, so I don't think that this is an imposition.

6 CHAIR JAMES: Commissioner Dobson.

7 COMMISSIONER DOBSON: Perhaps I didn't explain my
8 concern. We have amended, or are talking about amending, this
9 language to allow states to use a portion of the revenues from
10 this tax for treatment. That may be 1/1000th of a percent, we
11 don't know what it is. The rest of that is going into the
12 general fund or for some other purpose. Have I misunderstood?

13 COMMISSIONER McCARTHY: May I answer, Madam Chair?

14 CHAIR JAMES: Commissioner McCarthy.

15 COMMISSIONER McCARTHY: If you read the language of
16 4.19, it says "Such funding will be sufficient to implement the
17 following goals". So, whatever the portion is -- if we only have
18 a state with an existing gambling privilege tax that's dedicated
19 to some other things not on this list, we're not asking them to
20 terminate those expenditures. They've already exercised their
21 own judgment.

22 We're saying that these -- there has to be sufficient
23 funding to fulfill these goals listed here, whether it's the
24 total gambling privilege tax that's dedicated, or a portion of
25 it.

26 COMMISSIONER DOBSON: And the rest of it goes into the
27 general fund.

28 COMMISSIONER McCARTHY: No, it does not. There's no
29 reference here regarding the general fund. The gambling
30 privilege tax normally, when it exists in states, is -- and help

1 me out, Bill, if you know different -- is dedicated to some
2 specific purposes.

3 COMMISSIONER BIBLE: It varies. Mostly -- well,
4 varies, but in the larger states it will just be a general fund
5 revenue. That will be subject to the appropriation legislature.
6 What your recommendation is, if I understand what you're saying,
7 you're not calling necessarily for a new tax --

8 COMMISSIONER McCARTHY: If one exists already.

9 COMMISSIONER BIBLE: -- if there's already a
10 percentage, or a tax on percentage of revenue, but you're asking
11 that a portion of that be dedicated for treatment purposes.

12 COMMISSIONER WILHELM: And that that portion has to be
13 sufficient to accomplish --

14 COMMISSIONER BIBLE: The money has to be sufficient to
15 accomplish, that's correct.

16 CHAIR JAMES: But is it not, in fact, calling for a new
17 tax if it does not exist?

18 COMMISSIONER BIBLE: If it does not exist, it is
19 calling for a new tax.

20 CHAIR JAMES: It is calling for a new tax.

21 COMMISSIONER McCARTHY: That's correct. Or it might
22 possibly have to be enlarged if it is found to be necessary to
23 meet these purposes.

24 COMMISSIONER BIBLE: But if a state chooses to
25 otherwise meet these program purposes from its general revenues,
26 they wouldn't qualify under this because they have not either
27 increased their tax or dedicated a portion of an existing tax,
28 correct?

1 COMMISSIONER WILHELM: Jim, I may not be following your
2 point, but I believe Bob's point was simply that a state cannot
3 tax a Tribe.

4 COMMISSIONER DOBSON: I understand that. That is, in
5 fact, my concern because there is apparently a portion of this
6 that is not going to be dedicated to the purpose that we've
7 outlined.

8 COMMISSIONER WILHELM: Well, but Leo's formulation of
9 4.18, in my view, goes as far as the law permits because there is
10 no way a state can tax a Tribe. And so the 4.18 recommends that
11 both Tribal and state governments do the same thing by
12 encompassing the reference to 4.19, and further recommends that
13 those requirements ought to be included in both Tribal law,
14 because Tribes can tax themselves, and also in Tribal-state
15 compacts, which is the point of leverage that, in fact, states
16 and Tribes have with each other, is the negotiation of the
17 compact. So, unless I'm missing something, I believe that Leo's
18 recommendation goes as far as the law would permit.

19 COMMISSIONER BIBLE: And I'm trying to get a copy of
20 IGRA because there is tax language contained within that Act. I
21 haven't looked at it in ten years. Yes, there is some language
22 in there that indicates -- well, speaking from memory, it
23 indicates that states cannot tax the Tribes, but I believe there
24 may be an exception for costs of services performed.

25 COMMISSIONER WILHELM: Yes, but it isn't a tax.

26 COMMISSIONER LEONE: Can I get into this a minute? I
27 think we -- before we get too caught up in this, we ought to stop
28 and think a minute about what the recommendation means even when
29 we're applying it to a conventional state government.

1 It is a recommendation that a state government do
2 something that it may or may not do. It's a recommendation that
3 a Tribe that has gambling do something that it may or may not do,
4 whether it's with regard to casinos or lotteries or anything
5 else.

6 So, I think that we may be arguing about something that
7 is more language and less effect. I mean, the effect of these
8 recommendations depends on whether people take them seriously and
9 act on them -- state legislatures, Tribal governments, the
10 Federal Government, et cetera -- and I don't see that there's a
11 particular difference between our calling for the State of
12 Missouri to do something and our calling for the Piquads to do
13 something as what we think they ought to do. Obviously, in both
14 cases, what actually happens will turn on a variety of forces.

15 If we want to discuss the Federal Government changing
16 the status of the Tribes, if that were possible in legal
17 framework, that's a separate, stand-alone discussion, it seems to
18 me. This discussion can go forward regardless. I mean, there's
19 a number of practical facts about this. As I understand it,
20 Leo's language would apply this to lotteries, and obviously a
21 good deal of it is written for an institution that is somewhat
22 larger and more complicated than a 7-11 store. That doesn't
23 particularly bother me because I think the market and the
24 practicalities of how this would be implemented in states would
25 deal with the difference between the way MGM-Grand might respond
26 to these guidelines and the way the guy who sells groceries would
27 have to respond to them, and there'd be ways -- it's a little bit
28 like health insurance for employees -- I mean, they are very
29 different.

1 So, I don't think we should get too hung up on things
2 like that. This is not going to be one- size-fits-all, it's a
3 broad policy recommendation we are discussing. And if, let's
4 say, in some miraculous fashion, if every state and every Tribe
5 in fact said this is great, we're going to enact something like
6 this. At the end of the day, there'd be a wide variety, I
7 suspect, of differences in what they enact.

8 COMMISSIONER BIBLE: But I think we want to understand
9 what we are doing. There may be some jurisdiction -- what if
10 they are calling for a percentage tax based upon revenue. Not
11 all jurisdictions are going to levy taxes on their gaming
12 operations in that manner. Some of them will have device fees --
13 for instance, I would presume in South Carolina, which is
14 relatively unregulated, that they probably have a device fee
15 where it is \$200 per slot machine, or \$500 per gaming --

16 COMMISSIONER LEONE: Well, I don't understand that
17 difference either, Bill. A tax is a tax, whether you call it
18 something else or not, and I don't see where it says percentage
19 of revenues.

20 COMMISSIONER BIBLE: Well, it says right there in the
21 second line, it does.

22 (Simultaneous discussion.)

23 COMMISSIONER LEONE: Yes, but if I'm going to vote on
24 something, I want to know whether -- if we're going to vote on
25 something, I think we want to know are we calling for a new tax.
26 I'm sure Chairman James wants to know whether or not she's
27 recommending a new tax.

28 CHAIR JAMES: That's very important to me.

29 COMMISSIONER LEONE: I thought the phrase there was
30 "where necessary". Isn't that --

1 COMMISSIONER BIBLE: We don't have a "where necessary"
2 in here.

3 COMMISSIONER LEONE: Didn't you amend that --

4 CHAIR JAMES: Right now, as this language stands, this
5 Commission will be calling for states and Tribal governments to
6 enact new taxes -- it's called a gambling privilege tax -- based
7 on, as you say, Dick, a percentage of gross revenue, but a tax
8 nonetheless.

9 COMMISSIONER LEONE: That's the way I read it.

10 CHAIR JAMES: Commissioner Lanni.

11 COMMISSIONER LEONE: Without a doubt, that's --

12 COMMISSIONER LANNI: I think, Leo, there was -- one
13 word that dropped out of here -- was actually "gross casino
14 revenues", not "gross revenues".

15 COMMISSIONER WILHELM: But this isn't limited to
16 casinos.

17 COMMISSIONER LANNI: Well, gaming revenues, it doesn't
18 really matter if it's casinos, but gaming revenues.

19 COMMISSIONER WILHELM: Why is that different?

20 COMMISSIONER LANNI: Well, because you have
21 establishments where 50 percent of their revenues come from food,
22 beverage, retail, entertainment, and I don't think we're dealing
23 with food problems and --

24 COMMISSIONER WILHELM: You're right.

25 COMMISSIONER LANNI: -- or over retailing, and spending
26 too much on credit cards, so that needs to be limited also.

27 CHAIR JAMES: Would you like to add that word in?

28 COMMISSIONER LANNI: I thought that word was added.

29 CHAIR JAMES: Well, gaming.

1 COMMISSIONER LANNI: Gambling. You're saying gaming,
2 I'm saying gambling.

3 COMMISSIONER WILHELM: It's the litmus test, Terry.
4 (Laughter.)

5 CHAIR JAMES: Enabling legislation says "gambling".

6 COMMISSIONER LANNI: Kay and I are going to have our
7 ticket running against your ticket, anyway.
8 (Laughter.)

9 CHAIR JAMES: And we're going to win.

10 COMMISSIONER WILHELM: I'd say that's a runaway you've
11 got going.

12 COMMISSIONER BIBLE: I think on this one, Leo, is that
13 I think everybody in the Commission is in agreement. I think at
14 least I am concerned that this is a call for new taxes, and I
15 suspect you are going to pick up more people on the Commission if
16 somehow it's broadened out. If you take a look at the
17 recommendation 4.14 on page 9, it indicates that each state can
18 choose how they are going to fund the program, whether they do it
19 from existing revenues, or newly imposed revenues, or whatever.
20 But this is a very specific recommendation that has the
21 implication of calling for a new tax in a number of areas.

22 COMMISSIONER LEONE: Let me understand something. You
23 don't think this should be financed by essentially a use tax.
24 You think it would be all right if this came out of general
25 revenues.

26 COMMISSIONER BIBLE: Yes, as long as you accomplish the
27 program goals.

28 COMMISSIONER LEONE: See, I would oppose that. That
29 would make gambling even more regressive than it already is, by
30 definition.

1 COMMISSIONER BIBLE: And I suspect most states would
2 earmark or would go into the existing revenue stream, but you've
3 called here for --

4 COMMISSIONER LEONE: But, in fact -- if, in fact, a
5 state decided that it was going to take money from, let's say,
6 the state income tax, and use that to pay for the costs generated
7 by the state lottery tax, the net effect would be to make that
8 state's tax system to that extent less progressive and more
9 regressive.

10 So, I don't know why we'd get into that when we're
11 dealing with a universe that clearly involves the externalities,
12 the costs generated by the act of gambling, seems to me, a
13 classic case where you use a use tax. A use tax helps you get
14 more realistically at what the costs and benefits are of that
15 particular activity. We do it on lots of things, and I don't see
16 why we wouldn't do it here.

17 I also don't think there are likely to be any examples
18 at state government level, of gambling activities that are not
19 taxed.

20 COMMISSIONER BIBLE: But, Richard, you've got this
21 based on percentage of gross gambling revenues. Now, for
22 instance, in Nevada, there's an entire classification of licensee
23 that does not pay tax based upon gross gambling revenue, and --

24 CHAIR JAMES: Based upon what, Bill?

25 COMMISSIONER BIBLE: The gross gambling revenues. They
26 are taxed on a device bases. That's going to be true in a lot of
27 jurisdictions where there's a device tax and not a gross revenue
28 tax.

29 COMMISSIONER LEONE: Okay, but that's a use tax, too.
30 I didn't say gross --

1 COMMISSIONER BIBLE: I understand, but that's what we
2 have before us, and I would argue that it needs to accommodate
3 the various situations out there, and I am concerned that they
4 call for a new tax in some circumstances. I'm not opposed to
5 taking a portion of existing revenues and dedicating them for
6 this purpose.

7 CHAIR JAMES: I would be much more inclined to
8 recommend something like that, and I know that we are -- as a
9 Commission, this is going to be a tough one for us because it
10 basically, fundamentally comes down to one's philosophy of
11 whether or not we should impose new taxes, or suggest new taxes,
12 or we should suggest that states come up with other means of
13 funding this.

14 I think the fundamental area of agreement is that there
15 should be funding made available and that we should look at ways
16 of making sure that those resources get to where the problem is.
17 But, again, the problem comes when we, as a Commission, recommend
18 to states a new tax. Commissioner Dobson?

19 COMMISSIONER DOBSON: Madam Chair, I think we all agree
20 that this is a new tax. What creates a minor problem for me,
21 philosophically, is that we are not indicating that those
22 revenues are designated specifically for this purpose.

23 CHAIR JAMES: Or how much of it.

24 COMMISSIONER DOBSON: Or how much of it. Therefore, it
25 becomes a new tax for the general revenue. And I don't know if
26 that's what we are wanting to do. I commend Commissioners
27 McCarthy and Lanni for the work that they have done here and I
28 will support it, but that aspect bothers me because we don't know
29 what tiny portion of it is going to go to this purpose.
30 Everything else is a general tax increase.

1 CHAIR JAMES: Except that they do say it's sufficient
2 funding, and I think they tried to get at it through that in the
3 language. I'm not sure, maybe there's something that could be
4 done to accommodate Commissioner Dobson's desire to be sure that
5 the money specifically goes there. I still have an additional
6 problem, however, of recommending a new tax. Commissioner
7 Wilhelm.

8 COMMISSIONER WILHELM: I think that Leo's done a great
9 job on this, and I am personally comfortable with the phrasing of
10 "funding shall be sufficient". With respect to Bill's point
11 about, you know, the difference between percentage of revenues
12 and device fees and all that, it seems to me that could be dealt
13 with by saying something like -- in the second line, something
14 like --

15 CHAIR JAMES: Second line of --

16 COMMISSIONER WILHELM: -- 4.19, saying something like
17 "Based upon the gambling revenues of each operation", because
18 Bill is right, different states have different methodologies for
19 arriving at how that ought to be done.

20 On the more --

21 CHAIR JAMES: Excuse me, John, would you repeat that
22 language?

23 COMMISSIONER WILHELM: I was just throwing this out,
24 something like "Based upon the gambling revenues of each
25 operation", so that you wouldn't get involved in whether it had
26 to be a percentage. Bill's right, some -- I guess little bars or
27 slot rules or something in Nevada, it's per device.

28 COMMISSIONER BIBLE: That would be the case in Montana.

29 COMMISSIONER WILHELM: Yes. But on the broader issue
30 that has surfaced here of whether or not the Commission should be

1 in the business of essentially recommending a tax in those
2 jurisdictions where there isn't one, I do realize there's a
3 philosophical issue here. Seems to me that this recommendation
4 has three parts to it, when you add up 4.19 and 4.18.

5 First, it says on its face that if a state doesn't have
6 a gambling privilege tax, it should. I don't know how many
7 places like that there are with respect to private gaming. Off
8 the top of my head, I think that most, and maybe even all, states
9 that license private gaming do have some form of privilege tax.
10 So, I don't know that we are proposing a new privilege tax.

11 Now, with respect to 4.20 -- I'm sorry -- 4.18, where
12 we're recommending that the Tribes and the state governments,
13 with respect to governmental gambling, do the equivalent,
14 clearly, in my view at least, Commissioner Loescher is right. If
15 a Tribe agrees in a compact with a state or as a function of
16 Tribal governmental law to provide these type of funds, which I
17 would hope that they would on an equivalent basis, I don't know
18 that that's a tax. For purposes of IGRA, I don't think it is a
19 tax, I think it is a contribution.

20 And for purposes of a state allocating portions of its
21 own lottery revenue, that's not a new tax either because every
22 state takes lottery revenue into its general fund. So, unless I
23 am wrong, unless there is a jurisdiction which does not in any
24 way tax gambling already -- I doubt that there is -- then I don't
25 think we're recommending a new tax.

26 Now, having said all of that, even if we are, I agree
27 with Richard, I don't have a problem with that so long as it is a
28 recommendation to the states and the Tribes. I would have a
29 problem with federal legislation that would mandate a new tax at
30 the state and Tribal level. But I personally -- even if I'm

1 wrong about the fact that this probably isn't a new tax -- I
2 don't have a problem with recommending to states and Tribes that
3 if they are not doing this, they should be doing this. I don't
4 see what the problem is.

5 COMMISSIONER LOESCHER: Madam Chair.

6 CHAIR JAMES: Commissioner Loescher.

7 COMMISSIONER LOESCHER: I'd like to first suggest some
8 words and then make a motion, to make it clear. I would suggest
9 language like "Each state shall enact a gambling privilege tax,
10 assessment, or other contribution on all gambling operations".
11 I'd like to move the words after the word "tax", "tax,
12 assessment, or other contribution". I so move.

13 CHAIR JAMES: "Assessment or other" -- can we just keep
14 this from the motion stage just now, and look at words, because
15 we're going to have to come back and address each of these
16 individually and see if there's a motion. But the word changing
17 that you're suggesting is "assessment or other contribution".

18 COMMISSIONER LOESCHER: After the word "tax," then
19 "assessment or other contribution". Madam Chair, the reason I
20 say that is that, you know, the tax is a tax, and we understand
21 what taxes are, but assessment means if there's a program and --
22 for instance, in the case of Native Americans, if they are
23 contributing to a statewide program, it would be an assessment
24 that they would negotiate. Or if they already have money that
25 they are contributing, it would be recognized as a part of
26 whatever overall program in that state.

27 So, I think it gives more flexibility, given the vast
28 differences between states in America, this language.

29 CHAIR JAMES: Commissioner Lanni.

1 COMMISSIONER LANNI: Bob, you left out what we had
2 already included -- following "Each state shall enact, if it has
3 not already done so". Do you want to include that? It's not on
4 your written document, it was proposed as a modification.

5 COMMISSIONER LOESCHER: Madam Chair, my problem is that
6 I was thoroughly convinced and trust very implicitly my friend,
7 John Wilhelm. He says that 4.18 is sort of a governing language
8 for the pretext of all these sections, but when I got to thinking
9 about the word "tax", I said, umm, I really want to have a little
10 more flexibility here. So, that's the reason I --

11 COMMISSIONER LANNI: No, no. I think your additions --
12 I happen to support those. I'm saying when you read that, you
13 left out something we had already said.

14 COMMISSIONER LOESCHER: Oh, okay.

15 COMMISSIONER LANNI: "Each state shall enact, if it has
16 not already done so, a gambling privilege tax", and then your
17 addition I thought was appropriate, and I would second it.

18 COMMISSIONER McCARTHY: You want that language as
19 applied to the decision Tribal governments make.

20 CHAIR JAMES: No.

21 COMMISSIONER LOESCHER: No.

22 COMMISSIONER LANNI: No.

23 CHAIR JAMES: No, to everything.

24 COMMISSIONER BIBLE: It doesn't do that, Bob, because
25 it preambles "Each state shall enact", and a state can't enact an
26 assessment against a Tribe.

27 COMMISSIONER LOESCHER: But, Madam Chair, that's the
28 reason I had a little problem correlating what John Wilhelm was
29 telling me earlier. He assuaged my nervousness earlier --

1 COMMISSIONER WILHELM: Well, that may be what you want,
2 because a state can't do it and apply it to Tribal gaming.

3 COMMISSIONER LOESCHER: So, I don't know what 4.18 is
4 with respect to this overall language.

5 CHAIR JAMES: For a point of clarification, I think his
6 point is that if we give a list, it could be a privilege tax,
7 assessment, or other contribution, then that language is
8 inclusive, Bill, and would take care of his concerns about the
9 sovereignty issue and what Tribal governments could be required
10 to do.

11 COMMISSIONER BIBLE: But at least the preamble will
12 have the state enacting it, and it would have to be agreed to by
13 the Tribes through a compacting process or something of that
14 nature.

15 COMMISSIONER WILHELM: Well, I thought that was the
16 purpose of adding a reference to 4.19 to 4.18 because 4.18, I
17 think, addresses the fact that this has got to be done through
18 the compacting process or by the Tribe in passing its own laws.

19 CHAIR JAMES: That's correct.

20 COMMISSIONER McCARTHY: Again, keeping in mind what
21 Richard Leone said earlier, ultimately, it's going to have to be
22 the states and the Tribal governments that figure out how to do
23 this. I would hate to leave the source of the money so vague, so
24 opaque, that we reduce the certainty that there will be a fund
25 dedicated to these purposes.

26 Now, I understand the point made about some variation
27 and how states may tax different forms of gambling, and we can
28 try to add a little flexibility in that regard, but the key point
29 here is that there will be a dedicated fund to these purposes.
30 Otherwise, if it goes into the general fund -- from my previous

1 life, I know that these purposes are never going to see very much
2 money -- and if we loosen up where the money comes from instead
3 of being somewhat specific -- although I already concede for
4 purposes of Tribal governments we have to put that in a form that
5 they are comfortable with, as long as the ultimate result is that
6 what is contributed is a fair and proportionate amount to the
7 definition of the problem in the state.

8 COMMISSIONER BIBLE: I think you need to hold this and
9 work on that language so we're very sure what we're doing,
10 whether it's a call for new taxes or not.

11 CHAIR JAMES: Commissioner Wilhelm.

12 COMMISSIONER WILHELM: I maybe missing some of these
13 points, but if I try to read the first paragraph of Leo's 4.19,
14 based upon the various changes that have been suggested, to me it
15 would read like this: Each state shall enact, if it has not
16 already done so, a gambling privilege tax, assessment or other
17 contribution on all gambling operations within its boundaries,
18 based upon the gambling revenues of each operation. A portion of
19 such money shall be used to create a dedicated fund for the
20 development of ongoing support of problem gambling specific
21 research, prevention, education, and treatment programs. Such
22 funding shall be sufficient to implement the following goals.

23 To me, I think that does what everybody is trying to do
24 here, except that -- well, no, not except that. I think that
25 does what everybody is trying to do here, unless I've missed some
26 of the points.

27 COMMISSIONER DOBSON: Madam Chair, don't we have a
28 motion on the floor? I don't know if it was seconded, but --

29 CHAIR JAMES: We don't, at this point. We do not have
30 a motion on the floor.

1 COMMISSIONER McCARTHY: Well, I'm trying to satisfy
2 Bob's point, that we can leave sufficient flexibility for the
3 Tribes to still contribute the same certain amount of money, and
4 if he wants it describe in other words, that's fine.

5 COMMISSIONER LOESCHER: Madam Chair.

6 CHAIR JAMES: Commissioner Loescher.

7 COMMISSIONER LOESCHER: What's wrong with saying "Each
8 state and Tribal government", and then go on with the amended
9 language?

10 COMMISSIONER McCARTHY: I accept that amendment.

11 COMMISSIONER LOESCHER: Okay. I would like to add that
12 to my series of amendments.

13 (Laughter.)

14 CHAIR JAMES: At this point, we're just editing, before
15 we even get to the motion process.

16 VOICE: Do we have John's language down?

17 CHAIR JAMES: John has John's --

18 COMMISSIONER WILHELM: It's not mine, it's somebody
19 else's.

20 CHAIR JAMES: Everybody else's. Right now, John, how
21 about --

22 COMMISSIONER WILHELM: It would then read "Each state
23 and Tribal government shall enact, if it has not already done so,
24 a gambling privilege tax, assessment or other contribution on all
25 gambling operations within its boundaries, based upon the
26 gambling revenues of each operation. A portion of such monies"
27 -- and the rest of it would be just like Leo has it.

28 COMMISSIONER McCARTHY: Where did we get the word
29 "portion"?

30 CHAIR JAMES: Yes, "portion" wasn't in there.

1 COMMISSIONER WILHELM: Oh, well, somebody suggested
2 that a while ago on the grounds that --

3 COMMISSIONER McCARTHY: What's existing. Existing
4 taxes may say that.

5 COMMISSIONER WILHELM: Yes, right. Somebody pointed
6 out that existing --

7 COMMISSIONER LEONE: You really don't need the line,
8 Leo, if you're saying "Such funding shall be sufficient to
9 implement the following goals". By inference, it's a portion or
10 it's all, depending on the size of the assessment.

11 COMMISSIONER McCARTHY: No, I just didn't remember
12 somebody adding the language "a portion of" in front of "such
13 monies shall be used".

14 COMMISSIONER LANNI: Richard, we can't do that because,
15 again, you have an 8 percent tax, for example, in New Jersey,
16 which is dedicated to one thing. I don't think we are
17 recommending -- and I certainly wouldn't be in a position to
18 recommend -- that that entire 8 percent of gross casino revenues
19 be --

20 COMMISSIONER LEONE: How about "The funding dedicated
21 for this purpose shall be sufficient to", what if we say that?

22 COMMISSIONER LANNI: That works.

23 COMMISSIONER LEONE: I think it does.

24 CHAIR JAMES: The funding for --

25 COMMISSIONER McCARTHY: You mean cross out the second
26 sentence all together, Richard?

27 COMMISSIONER LEONE: Well, no, don't cross it out all
28 together.

29 CHAIR JAMES: But the last sentence should then say
30 instead of "Such funding", you've suggested which language?

1 COMMISSIONER McCARTHY: "The funding dedicated to the
2 following purposes" -- how did you word it, Dick?

3 COMMISSIONER LEONE: "The funding dedicated to these
4 purposes shall be" -- the purposes I'm referring to are the
5 previous sentence -- "for these purposes shall be sufficient to
6 implement the following goals".

7 COMMISSIONER McCARTHY: That's fine, I accept that.

8 CHAIR JAMES: I'm going to ask Dr. Kelly to read that
9 back to make sure that the staff has it all.

10 DR. KELLY: Okay. Here's what we have so far. "Each
11 state and Tribal government shall, if it has not already done so,
12 enact a gambling privilege tax, assessment or other contribution
13 on all gambling operations within its boundaries, based upon the
14 gambling revenues of each operation. A portion of such monies
15 shall be used" --

16 CHAIR JAMES: No.

17 COMMISSIONER McCARTHY: "A percentage of the gaming
18 revenue" --

19 DR. KELLY: I'm sorry.

20 CHAIR JAMES: There was no "A portion".

21 DR. KELLY: Scratch "A portion of"?

22 COMMISSIONER McCARTHY: Yes.

23 DR. KELLY: I'll start again that sentence. "Such
24 monies shall be used to create a dedicated fund for the
25 development and ongoing support of problem gambling specific
26 research, prevention, education and treatment programs. The
27 funding dedicated for these following purposes shall be
28 sufficient" --

29 COMMISSIONER McCARTHY: "For these purposes".

1 COMMISSIONER LEONE: No, just "these purposes" because
2 you just said what they are.

3 DR. KELLY: "The funding dedicated for these purposes
4 shall be sufficient to implement the following goals."

5 COMMISSIONER LANNI: I still have a problem with the
6 issue because if you take an existing privilege tax, you would
7 still, in that verbiage, be taking all of it, and that is not
8 what we're -- I don't think that's what we're suggesting. It
9 certainly isn't what I'm suggesting.

10 COMMISSIONER WILHELM: And the State of New Jersey has
11 8 percent they've already earmarked, or three-quarters of it, for
12 various things, specific things.

13 COMMISSIONER McCARTHY: Well, I think I recall earlier,
14 Terry, you saying that to -- if we really are serious about
15 having sufficient funds to implement these goals of research,
16 treatment, and so on, that they may have to enlarge --

17 COMMISSIONER LANNI: I understand that.

18 COMMISSIONER LEONE: Terry, how about at the beginning
19 of the sentence we just said "All or part of such monies shall be
20 used" --

21 COMMISSIONER LANNI: That works.

22 COMMISSIONER LEONE: Or an appropriate amount of such
23 monies, or whatever it is.

24 COMMISSIONER LANNI: You would be technically
25 recommending that the State of Nevada take its entire 6.75
26 percent and apply it to --

27 CHAIR JAMES: Or part of it.

28 COMMISSIONER DOBSON: Isn't that covered by our
29 statement "if they haven't already done so"?

30 COMMISSIONER LANNI: No.

1 COMMISSIONER DOBSON: New Jersey and Nevada have
2 already done so.

3 COMMISSIONER LANNI: They've already done so, but we go
4 on to say -- you could say "all or part". You could say take all
5 of that and apply it to pathological gambling treatment. I still
6 like the idea -- maybe we ought to have some language that
7 basically says "for those entities that are already a part of a
8 privilege tax" --

9 COMMISSIONER LEONE: How about a sufficient portion?

10 COMMISSIONER LANNI: That works.

11 COMMISSIONER DOBSON: That would work for me.

12 COMMISSIONER LEONE: And then we could clean up this
13 sufficient language later on because we've already --

14 CHAIR JAMES: Adequate portion.

15 COMMISSIONER LEONE: Adequate portion -- adequate is
16 probably better.

17 (Simultaneous discussion.)

18 COMMISSIONER LEONE: Well, that allows you to use --
19 the way or the three sources of funds that allows you to use any
20 revenue. That leaves it up to them.

21 COMMISSIONER BIBLE: And it's still based upon revenues
22 of each operation, based upon like machine count or some other
23 taxing methodology.

24 CHAIR JAMES: What I'm going to do is ask Commissioner
25 Kelly, as we go back to discuss those others, to clean up that
26 language so that we have it in front of us so that we know
27 exactly what it is that we're looking at.

28 COMMISSIONER WILHELM: Tim, you were just demoted to
29 the status of Commissioner.

30 DR. KELLY: I noticed that.

1 CHAIR JAMES: Did I do that again?

2 COMMISSIONER WILHELM: You keep demoting him to be like
3 the rest of us.

4 CHAIR JAMES: What can I say, absolutely. Director
5 Kelly. If you could do that, we'd appreciate that.

6 VOICE: Helluva pay cut.

7 CHAIR JAMES: Okay. Yeah.

8 COMMISSIONER BIBLE: Before we leave this -- I know
9 it's late -- you've got the research being done by a non-partisan
10 firm. Does that mean they can't be registered to vote?

11 (Laughter.)

12 CHAIR JAMES: I certainly hope not. Independent is
13 probably a better word.

14 (Simultaneous discussion.)

15 CHAIR JAMES: Having gone through with word changes, I
16 think it's appropriate now that we go back to 4.16, which is the
17 first one, first recommendation before us, and see if there is in
18 fact, with the language changes as discussed, there is a motion
19 to adopt.

20 COMMISSIONER McCARTHY: Move.

21 COMMISSIONER DOBSON: Second.

22 CHAIR JAMES: Is there a second?

23 COMMISSIONER DOBSON: Second.

24 COMMISSIONER LANNI: I have a proposed amendment.

25 CHAIR JAMES: With that, I will ask -- we are ready for
26 the discussion and any proposed amendment. Commissioner Lanni.

27 COMMISSIONER LANNI: Well, I think one was already
28 suggested. I presume the motion included the language for Tribal
29 and state governments to get the - -

30 CHAIR JAMES: Yes, it did.

1 COMMISSIONER LANNI: So, assuming that, then I only
2 have one, and it goes to point No. 4, and it really ties to point
3 No. 3 -- and I agree with every aspect of this. You take a look
4 at it, I think point No. 3 covers not only point No. 4, but
5 anything else. It says "Contract with a state recognized
6 gambling treatment professional to train management and staff to
7 develop strategies for recognizing and addressing customers whose
8 gambling behavior may strongly suggest they may be experiencing
9 serious to severe difficulties".

10 Now, that specialist or expert in this particular area
11 may suggest that an individual look into the gambling records of
12 the individual, but for us to assume that the profile, looking
13 and monitoring, if you will, the gambling aspects of an
14 individual, someone who might visit 90 times may not be
15 necessarily a problem or pathological gambler. An individual who
16 may wager \$10,000 a hand, who has a net worth of \$5 billion,
17 certainly is not moving outside his economic realm. And I think
18 that's too limiting, and I would move that we strike 4; make 5,
19 4; 6, 5; and 7, 6, because it really is limiting it, and let the
20 professional determine what the methodology and what the we
21 should be looking at.

22 CHAIR JAMES: Leo, this is your amendment. Would you
23 accept that as --

24 COMMISSIONER McCARTHY: Well, let's talk about it just
25 briefly. I've been trying for a long time to figure out how to
26 get any gambling facility to look at its database -- and that's
27 any gambling facility -- and that -- I'm not talking limiting
28 that to credit worthiness. It may be how much and how often they
29 bet on slot machines, you know, the way machines can now be
30 devised to register that. It may be any kind of information

1 that, looking at it -- again, here we're talking about the good
2 faith and the willingness of gambling facility management here.
3 This isn't something that some government official is going to
4 decide. This is going to be the judgment of management of a
5 facility here. We're just trying to get them to look at all the
6 information they may have in front of them.

7 Now, in the case that -- and Terry and I discussed this
8 a little bit. In the case that Terry's talking about, if a man
9 with a worth of \$5 billion loses \$100,000, that doesn't show any
10 disorder, and it doesn't show any severe difficulties. It may
11 show absolutely nothing, and it is not suggestive of that.

12 We're talking about something with considerably more
13 weight than that. We're talking about a pattern of behavior here
14 that gives warning signals. That's what we're talking about
15 here, and I would hate to think that the database didn't have any
16 usefulness.

17 All I'm trying to do here is to encourage gambling
18 facilities to use their database, to look at it -- not
19 specifically add information that they wouldn't ordinarily
20 otherwise add themselves in their own good business sense of what
21 belongs in there, but to at least look at the database to see
22 whether together with human observations of the staff that's been
23 trained by a qualified professional and whatever else they do,
24 they may recognize a lot of symptoms that suggest this person
25 should gently be channeled into some treatment option. That's
26 all I had in mind.

27 COMMISSIONER LANNI: Leo, may I respectfully disagree.
28 One issue you pointed out is this is going to be good faith, and
29 good faith is a part of it, but if you read 4.16, we say "The
30 Commission respectfully recommend that governments require" as a

1 condition of each gambling facility's license to operate, "that
2 each applicant adhere to the following", so it's more than good
3 faith.

4 We're asking for legislation to enact -- or regulations
5 to be enacted at a state level. And all I'm saying is that I'm
6 not a clinician on this. I am not expert on this. I don't know
7 if the patron's gambling behavior from a database is what is
8 required or not to ascertain as part of a puzzle a person's
9 pathological problem gaming. I think it's covered in point No. 3
10 because we're saying -- this would be a state regulation or a
11 state law that would say you have to have a treatment
12 professional acceptable to us, in fact, to train management and
13 staff to develop strategies for recognizing and addressing
14 customers. If that specialist determines that the database is
15 part of that strategy, I think that will be part of the
16 recommendation which will be part of the licensing process. I
17 just don't see it as a separate point. Let's let these experts
18 -- I'm not an expert, and I don't think, as much as you've read
19 about this, that you're an expert either on it -- let's let the
20 experts recommend to us what should be included, what should be
21 excluded.

22 CHAIR JAMES: Commissioner Leon.

23 COMMISSIONER LEONE: I think, actually, Leo, that Terry
24 has a point. No. 3 describes a process whereby a gambling
25 operator will consult with professionals to develop strategies
26 for recognizing and addressing these problems, and then, in fact,
27 the recommendations go on to suggest that they'll take actions.

28 Now, it seems perfectly plausible to me that those
29 strategies are going to include consulting the database to see
30 what this person is doing, but --

1 COMMISSIONER McCARTHY: Madam Chair, I accept Mr.
2 Lanni's amendment. Delete No. 4 and renumber 5, 6, and 7 to 4, 5
3 and 6.

4 CHAIR JAMES: You had a second a moment ago, who
5 seconded that?

6 COMMISSIONER MOORE: I second.

7 CHAIR JAMES: You did? Would you accept that --

8 COMMISSIONER MOORE: I did.

9 CHAIR JAMES: No, but we had a motion, somebody
10 seconded it. It was Dr. Dobson. Would you accept that?

11 COMMISSIONER DOBSON: I would, yes.

12 CHAIR JAMES: With that, --

13 COMMISSIONER McCARTHY: Move the recommendation.

14 CHAIR JAMES: Call for the vote.

15 COMMISSIONER LOESCHER: Madam Chair.

16 CHAIR JAMES: Commissioner Loescher.

17 COMMISSIONER LOESCHER: You've got a series of motions
18 going -- you're going to take them one-by-one?

19 CHAIR JAMES: Um-hmm.

20 COMMISSIONER LOESCHER: There's one little thing that
21 is a prerequisite to my voting.

22 CHAIR JAMES: Okay.

23 COMMISSIONER LOESCHER: That 4.18 applies to 4.16
24 through 4.20, the language of 4.18. If we have that
25 understanding, I'll be happy to vote --

26 COMMISSIONER McCARTHY: We have that understanding.
27 However these are finally numbered, what is now 4.18 will include
28 the sections you are referring to.

29 COMMISSIONER LOESCHER: Okay.

30 CHAIR JAMES: Commissioner McCarthy said it, so be it.

1 COMMISSIONER McCARTHY: Madam Chair, do you want a
2 motion to adopt just this one, or to adopt all four?

3 CHAIR JAMES: Do you want to do all four?

4 COMMISSIONER BIBLE: I think we ought to go through
5 one-by-one to assure at least when we get to 4.18 --

6 CHAIR JAMES: What's that? I didn't hear that, Bill.

7 COMMISSIONER BIBLE: I think we ought to go through
8 them one-by-one so when we get to 4.18 --

9 COMMISSIONER McCARTHY: I move on 4.16.

10 CHAIR JAMES: All in favor?

11 (Chorus of ayes.)

12 CHAIR JAMES: Any opposed?

13 (No response.)

14 4.16 is adopted.

15 COMMISSIONER McCARTHY: Move 4.18.

16 COMMISSIONER LANNI: Any abstentions?

17 CHAIR JAMES: Oh, any abstentions -- thank you. No
18 abstentions.

19 COMMISSIONER McCARTHY: Move on 4.18.

20 CHAIR JAMES: Is there a second?

21 COMMISSIONER WILHELM: And we're reading that to
22 include all three of the others?

23 CHAIR JAMES: That's correct, 4.16 through 4.20.
24 Discussion? We've had a great deal already.

25 COMMISSIONER McCARTHY: Question.

26 CHAIR JAMES: Call for the question. All in favor?

27 (Chorus of ayes.)

28 CHAIR JAMES: Any opposed?

29 (No response.)

30 Any abstentions?

1 (No response.)

2 4.19.

3 COMMISSIONER McCARTHY: Move on 4.19.

4 CHAIR JAMES: Commissioners, we have a motion. Do we
5 have a second?

6 COMMISSIONER DOBSON: Second.

7 CHAIR JAMES: I was going to have Commissioner Kelly
8 read that for us.

9 DR. KELLY: Unfortunately, I have given my text to be
10 edited and brought back to us, so I'm afraid I don't have it in
11 front of me.

12 CHAIR JAMES: Okay. Well, why don't you and I, John,
13 do our best at this.

14 "Each state and Tribal government shall enact, if it
15 has not already done so, a gambling privilege tax, assessment or
16 other contribution, on all gambling operations within its
17 boundaries, based upon the gambling revenues of each operation.
18 A sufficient portion of such monies shall be used to create a
19 dedicated fund for the development and ongoing support of problem
20 gambling specific research, the prevention, education and
21 treatment programs. The funding dedicated for these purposes
22 shall be sufficient to implement the following goals."

23 How did I do, John?

24 COMMISSIONER McCARTHY: Congratulations.

25 COMMISSIONER WILHELM: Perfect, as always. And then
26 Leo had made a change in the third to the last line of No. 5 as
27 well.

28 CHAIR JAMES: That's correct. There was a wording
29 change that says instead of "treatment", "can receive necessary

1 support based upon a sliding scale, that language was changed to
2 "a financial need".

3 COMMISSIONER LANNI: Financial need.

4 CHAIR JAMES: I've heard a motion, I've heard a second.
5 Are we ready for the question?

6 COMMISSIONER McCARTHY: Question.

7 CHAIR JAMES: All in favor?

8 (Chorus of ayes.)

9 CHAIR JAMES: Any opposed?

10 (No response.)

11 Any abstentions?

12 (No response.)

13 Next, 20.

14 COMMISSIONER McCARTHY: Moved.

15 CHAIR JAMES: It has been moved. Has it been seconded?

16 COMMISSIONER WILHELM: Second.

17 CHAIR JAMES: Just under discussion area, I would
18 remind Commissioners that the language will be changed there to
19 reflect consistency throughout the document -- "Shall be required
20 to conspicuously post and disseminate the telephone numbers of at
21 least two state approved providers of gambling information
22 treatment and referral support services". It has been moved and
23 has been seconded. All in favor?

24 (Chorus of ayes.)

25 CHAIR JAMES: Any opposed?

26 (No response.)

27 Any abstentions?

28 (No response.)

29 Hearing none --

30 COMMISSIONER WILHELM: Madam Chair.

1 CHAIR JAMES: Yes. I heard a Madam Chair.

2 COMMISSIONER WILHELM: Yes. As long as we're in this
3 section, can we also take a look at Commissioner Loescher's
4 recommendation?

5 CHAIR JAMES: No. 4.17, we're going to do that. And
6 the numbers will be reworded to reflect how they are, but 4.17,
7 "The Commission recommends encouraging private volunteerism of
8 groups and associations working across America to solve problem
9 gambling, especially those involving practitioners who are trying
10 to help people who are problem gamblers. This should include
11 strategically pooling resources and networking, drawing on the
12 list of recommendations these organizations have presented to the
13 Commission and working to develop uniform methods of diagnosis".

14 Is there a motion?

15 COMMISSIONER LOESCHER: Madam Chair, I so move.

16 CHAIR JAMES: Is there a second?

17 COMMISSIONER WILHELM: Second.

18 CHAIR JAMES: Ready for discussion.

19 (No response.)

20 Hearing none, are we ready for the question? All in
21 favor?

22 (Chorus of ayes.)

23 CHAIR JAMES: Any opposed?

24 (No response.)

25 I am going to ask that when we break in a while for
26 lunch, that staff and Commissioners use a portion of our lunch
27 period to look ahead in the document to see what kinds of
28 consolidation and elimination we can do based on that body of
29 recommendations that were just passed.

30 COMMISSIONER LANNI: Madam Chair.

1 CHAIR JAMES: Commissioner Lanni.

2 COMMISSIONER LANNI: I think that we should also note
3 this does not mean that we no longer need to hold 3.18, 3.19 and
4 3.22?

5 CHAIR JAMES: Yes, 3.18, 3.19 and 3.22 have been
6 deleted.

7 COMMISSIONER LANNI: Thank you.

8 CHAIR JAMES: That takes us back to then 3.21. Is
9 everybody there? Okay. Let's proceed. "The Commission
10 recommends that warnings regarding the dangers and risk of
11 gambling as well as the odds should be posted in prominent
12 locations in all gambling facilities." Is there a motion?

13 COMMISSIONER BIBLE: I'll move it.

14 CHAIR JAMES: It has been moved. Is there a second?

15 COMMISSIONER McCARTHY: I think we understand here,
16 Madam Chair, that we're not asking facility owners/managers to
17 post different kinds of signs --

18 CHAIR JAMES: Let's hold that for discussion. We need
19 a second right now, to proceed. Do we have a second?

20 COMMISSIONER MOORE: Second.

21 CHAIR JAMES: It has been moved and seconded. We're
22 ready for discussion. Leo.

23 COMMISSIONER McCARTHY: As long as we understand this
24 can be consolidated with what we just passed, the last of my four
25 recommendations, if we want to do so. Warnings and phone numbers
26 could be on the same sign so we're not over-complicating this.

27 CHAIR JAMES: Do you want to delete it?

28 COMMISSIONER BIBLE: What would you envision the
29 warning saying?

1 COMMISSIONER McCARTHY: The best warning that I saw in
2 all the materials we were given during our regional site hearings
3 was the Las Vegas, actually, a pamphlet -- I can't remember the
4 name of the group that distributed it, but it listed, in effect,
5 the criteria of DSM IV. And some of the others were absolutely
6 meaningless and didn't provide anything. They were --

7 COMMISSIONER BIBLE: I can envision, based upon our
8 research, somebody putting a sign on a machine saying "97 percent
9 of you gamble responsibly, 3 percent of you don't. You may be
10 one of the 3 percent".

11 COMMISSIONER McCARTHY: Yes. I think we can
12 individually send those suggestions around the country, if we
13 want --

14 (Laughter.)

15 CHAIR JAMES: I don't think we are -- this Commission
16 is recommending what that ought to be, Bill, but that they ought
17 to responsibly consider some type of warning.

18 COMMISSIONER LEONE: Kay, I'm particularly interested
19 in the odds being posted at machines, at games being readily
20 available. I think people -- I can't see any arguments against
21 the odds being displayed on any game of chance.

22 COMMISSIONER BIBLE: How do you post odds on where you
23 have players --

24 COMMISSIONER WILHELM: That's what I was going to ask.
25 I'm not a gambling expert -- Terry or Bill would know -- it seems
26 to me you can post -- I don't think you can post odds on poker.

27 COMMISSIONER LANNI: No, or blackjack or craps.

28 COMMISSIONER WILHELM: On machines, can you post odds,
29 or can you post payoff, what can you post on a machine?

1 COMMISSIONER LANNI: What you can basically post is the
2 average payback. It varies from machine-to-machine, and it
3 differs for what you wager on a machine.

4 COMMISSIONER WILHELM: I would agree with Richard
5 except --

6 COMMISSIONER LANNI: -- I don't know how you do it
7 practically.

8 CHAIR JAMES: What if the language said something like
9 "The Commission recommends that warnings regarding the dangers
10 and risks of gambling, as well as the odds, where appropriate,
11 should be posted in prominent locations".

12 COMMISSIONER McCARTHY: That's "where feasible" rather
13 than "appropriate"?

14 CHAIR JAMES: Where feasible is better.

15 COMMISSIONER WILHELM: Because I think Richard is
16 right.

17 CHAIR JAMES: "The Commission recommends that warnings
18 regarding the dangers and risks of gambling, as well as the odds,
19 where feasible, should be posted" -- would you accept that as a
20 friendly amendment?

21 COMMISSIONER McCARTHY: Sure.

22 CHAIR JAMES: Okay. Are we ready for the vote? All in
23 favor?

24 (Chorus of ayes.)

25 CHAIR JAMES: Any opposed?

26 (No response.)

27 Okay. 3.23, "The Commission recommends that gambling
28 facilities should be required to institute loss limits daily,
29 monthly, and yearly, for frequent players and/or slot club

1 members, based on a customer's demonstrated ability to absorb
2 such losses". Is there a motion?

3 COMMISSIONER MOORE: I'm not so sure about 3.23.

4 COMMISSIONER WILHELM: Well, there's no motion.

5 CHAIR JAMES: Then you don't have to worry about it.

6 COMMISSIONER MOORE: Okay.

7 CHAIR JAMES: Hearing none, 3.24. "The Commission
8 recommends that gambling regulators should be prohibited from
9 working for or representing gambling interests for a minimum of
10 five years upon leaving a regulatory agency, to ensure regulatory
11 integrity."

12 COMMISSIONER LEONE: Those rules, I assume, vary -- I
13 don't know who made this recommendation -- they vary from
14 state-to-state.

15 COMMISSIONER BIBLE: This was Dr. Dobson's
16 recommendation, they vary from state-to-state. I was very
17 aggressive at pushing within Nevada an expansion of cooling-off
18 periods to entire agencies --

19 CHAIR JAMES: Do we have a motion?

20 COMMISSIONER DOBSON: Yes, you have a motion.

21 CHAIR JAMES: We have a motion. Do we have a second?

22 COMMISSIONER LEONE: I would just like to know more
23 about what the existing situation is --

24 COMMISSIONER BIBLE: I'm starting to explain it.

25 CHAIR JAMES: Could we get a second, and then we can
26 discuss it. Maybe we don't need to.

27 COMMISSIONER McCARTHY: For purposes of discussion,
28 I'll just second, although I have some question about the
29 five-year --

30 CHAIR JAMES: Right. Commissioner Bible.

1 COMMISSIONER BIBLE: Most jurisdictions do have
2 cooling-off periods that apply generally to regulators, whether
3 it be gaming regulators or insurance regulators who are going to
4 work in the industry that they regulate. I've never seen a term
5 as long as five years. For instance, I'm personally subject to a
6 one-year cooling-off period, and that seems to me to be
7 appropriate in terms of distance from the task you performed, the
8 knowledge you've gained, and decisions you made, with a
9 cooling-off or a hiatus before you would go to work for the
10 industry. I personally support cooling-off, I think five years
11 is way overly long. But I wouldn't mind if it would be modified,
12 if you'd care to modify it, Jim, so that during that five-year
13 period the state would continue your salary.

14 COMMISSIONER DOBSON: Fine. The intent here is
15 obvious. I think that there is a potential for an enormous
16 conflict of interest, and I think there should be something more
17 than a year, which seems to me to be very small -- short.

18 CHAIR JAMES: Commissioner Wilhelm.

19 COMMISSIONER WILHELM: I have three objections to this.
20 First, I don't recall anything in our record about this, other
21 than a passing reference to a New York Times article. With all
22 due respect to the New York Times, I don't consider that a
23 record.

24 Second, it seems to me that in this particular area,
25 especially after the record, that we don't have any basis to
26 conclude that a state should treat gambling regulators any
27 differently from a variety of other regulators. Somebody said
28 insurance regulators, liquor regulators, et cetera.

29 Third, as gambling expands, I think it is critically
30 important that the reservoir of knowledge that exists about

1 effective regulations be bigger, not smaller. So, for example, if
2 this recommendation were to be taken literally, a Tribe which
3 concluded that it needed a level of regulatory advice that it
4 doesn't have, could not hire a regulator who had departed from a
5 state regulatory agency, even if that person was highly skilled
6 and very knowledgeable, for x-number of years. And that seems to
7 me to be not a particularly useful restriction to create.

8 So, for all three of those reasons, but most especially
9 because we have no record to suggest that there is a problem in
10 this regard, I would be against this recommendation in any form.

11 COMMISSIONER BIBLE: I would agree with certainly your
12 last comment. I was not reading this as being so global to apply
13 to non-jurisdictional boundaries where, say, a regulator in New
14 Jersey could go to work for a Tribe, or a regulator in Nevada
15 could go to work in New Jersey.

16 COMMISSIONER WILHELM: Well, as written, I think it's
17 quite --

18 COMMISSIONER BIBLE: No, and I think that that -- you
19 know, I would not support that. Another thing is, as a manager
20 of a regulatory agency, I feel a lot more comfort when some of
21 the people that were performing the regulatory functions for a
22 licensee had regulatory experience. They knew the code, they
23 knew the ethical standard, and they tended to support it. I do
24 believe, generally, though, that there should be a one-year
25 cooling-off period for a regulator from the industry they
26 regulate -- much more specific.

27 CHAIR JAMES: Commissioner Dobson.

28 COMMISSIONER DOBSON: Commissioner Bible knows more
29 about this subject than the rest of us together. Is there a way
30 to craft this so that you would be comfortable with it?

1 COMMISSIONER BIBLE: Yes.

2 COMMISSIONER DOBSON: How would you do it?

3 COMMISSIONER BIBLE: I strongly advocate cooling-off
4 periods. I don't think any individual should leave any
5 regulatory agency and within a time period -- one year seems to
6 be a fairly appropriate time period -- be engaged by someone that
7 you have supervised as a licensee or as a regulated individual,
8 be engaged by that particular entity, especially as it relates to
9 any matter you may have had under consideration during your
10 tenure. To me, it's a fairly simple matter. I could work on
11 language here to make this appropriate. I think most states
12 already do this.

13 COMMISSIONER DOBSON: Again, one year seems short to
14 me. I don't know where the rest of the Commission is.

15 COMMISSIONER BIBLE: But I think the point that John
16 made is an important point. If, for instance, a Tribal gaming
17 operation wants to engage a regulator who has substantial
18 experience, say, from New Jersey -- all the individuals from
19 Foxwood's were employed from New Jersey -- they would not be able
20 to perform that function under this particular provision.

21 COMMISSIONER LOESCHER: Madam Chair.

22 CHAIR JAMES: Commissioner Loescher.

23 COMMISSIONER LOESCHER: I'm going to vote against the
24 motion unless it is amended. Even for key staffers in Congress,
25 one year is the limit -- you know, you can't do business with
26 them for a year. It seems to be a widely known practice that
27 people who have a potential conflict should at least abstain for
28 a year. If this was amended to be just one year, I think that
29 would be fine. If not, I really think you really encroach on
30 people's livelihood. In private enterprise, we have non-compete,

1 and we pay for non- compete provisions of contracts, if you don't
2 want somebody competing with you for a period of time or be
3 involved in the business.

4 The other is Native American people have benefited
5 greatly because of transference of people from Las Vegas and
6 Atlantic City into Native American Tribal gaming. So, we would
7 lose this advantage if this was enacted.

8 CHAIR JAMES: Commissioner Dobson, what is your
9 pleasure?

10 COMMISSIONER DOBSON: Again, Bill, can you -- is the
11 only thing you are suggesting the change of the term to one year?

12 COMMISSIONER BIBLE: No, no, no. I would change both
13 the term and the element of, I suppose, jurisdiction. Where
14 you've indicated "working for or representing gambling interest",
15 I believe it should be much more specific to those activities
16 that you were responsible for during your tenure as a regulator.

17 COMMISSIONER DOBSON: Can you give us that language?

18 COMMISSIONER BIBLE: I can --

19 CHAIR JAMES: Why don't we --

20 COMMISSIONER DOBSON: We'll table it until --

21 CHAIR JAMES: Well, that's easy enough to do right now,
22 if we can. What was that -- we can get it done and out of the
23 way. Commissioner Bible, what would that say -- "working for or"
24 --

25 COMMISSIONER BIBLE: "Representing gambling interests
26 that the regulator had responsibilities for during their tenure
27 of employment" -- what I advocated was much more specific in
28 terms of knowledge gain, worked on audits, and things of that
29 nature -- possession of trade secrets. I think it could be
30 expanded here.

1 CHAIR JAMES: With that understanding --

2 COMMISSIONER BIBLE: I can get some more precise
3 language.

4 CHAIR JAMES: With that understanding, could we go
5 ahead and in good faith vote on that, let Bill work on that
6 language so that we can clear this up and not have one more?

7 COMMISSIONER BIBLE: One year.

8 CHAIR JAMES: Would you accept "for one year"?

9 COMMISSIONER DOBSON: Yes, I will. Obviously, I would
10 like it to be longer, but I don't hear support for that, and so I
11 would accept it.

12 COMMISSIONER LANNI: I would second that.

13 CHAIR JAMES: So moved. All in favor?

14 (Chorus of ayes.)

15 CHAIR JAMES: All opposed?

16 COMMISSIONER WILHELM: No. I'll abstain.

17 CHAIR JAMES: We have one abstention.

18 VOICE: So it's 7, 1, and one abstention.

19 COMMISSIONER WILHELM: No, I just abstain.

20 (Simultaneous discussion.)

21 CHAIR JAMES: 3.25, "The Commission recommends that
22 states should conduct periodic reassessments of the various forms
23 of gambling permitted within their borders, for the purpose of
24 determining whether the public interest would be better served by
25 limiting or eliminating one or more of these forms". Is there a
26 motion?

27 (No response.)

28 Hearing none, 26, "The Commission recommends that
29 Congress consider legislation requiring a compact between any two

1 or more states in cases where a gambling facility is planned for
2 a location within 50 miles of the border of a neighboring state".

3 COMMISSIONER LEONE: It's the compact's recommendation
4 later on that looks like it turns it around.

5 COMMISSIONER BIBLE: Do you know the number?

6 COMMISSIONER LEONE: Does anybody know the number
7 off-hand? I thought I had it here.

8 CHAIR JAMES: Let's table that until the staff can find
9 it, and then we'll come back to that and look at those two
10 together.

11 COMMISSIONER DOBSON: 3.44.

12 CHAIR JAMES: You found it?

13 COMMISSIONER LEONE: Yes. I like 3.44, and I think
14 it's more practical than this one.

15 COMMISSIONER LANNI: I don't like either one of them.

16 COMMISSIONER DOBSON: That happens to be my suggestion,
17 so I will move that we accept 3.44.

18 CHAIR JAMES: We just have eliminated 3.26.

19 COMMISSIONER DOBSON: That's right.

20 CHAIR JAMES: We'll get to 3.44 when we get there,
21 unless you want to consider it now.

22 COMMISSIONER DOBSON: No.

23 CHAIR JAMES: Okay. "The Commission recommends that
24 individual states should pass legislation requiring a regional
25 impact assessment measuring both the positive and negative
26 impacts of gambling on the surrounding area within a 50-mile
27 radius prior to any introduction or expansion of gambling within
28 the state."

29 COMMISSIONER LEONE: I'll move it.

30 CHAIR JAMES: It has been moved. Is there a second?

1 COMMISSIONER McCARTHY: Second.

2 CHAIR JAMES: It has been moved and seconded.
3 Discussion?

4 COMMISSIONER WILHELM: I have a problem with this in
5 the context of everything else we've said. We have agreed on
6 very dramatic language that says nobody knows. We've said nobody
7 knows what the real social impact is. We've said nobody knows
8 what the real social cost is. There's some among us saying
9 nobody knows what the economic benefits are -- a majority of us
10 say that.

11 So, what is it that this impact study is going to say?
12 Is it going to say, "Gee, nobody knows?" I mean, throughout
13 everything we've approved so far, we have said people don't know,
14 there's got to be a great deal more research. We have also said
15 that there ought to be a moratorium to consider it in some
16 communities, and that nationally there ought to be a pause
17 because we don't know. So, what is it that states are supposed to
18 study? Nobody knows. I'm puzzled by this.

19 I'm not against the concept of recommending that states
20 ought to think about the implications of doing this stuff, I'm
21 for that, but I don't understand what it is they are going to
22 study if nobody knows.

23 COMMISSIONER LEONE: Well, because I think we don't
24 want to despair of ever knowing more, then the argument for
25 empirical research, it seems to me, is compelling, and the
26 empirical research on social and economic impacts will come out
27 of the accumulation of properly conducted studies of these types,
28 along with other kinds of research. I don't think we want to say
29 -- I don't believe that the answer to the limits of our knowledge
30 is that therefore states should, to coin a phrase, "flip a coin"

1 to decide whether or not to introduce additional gambling. I
2 think they should try to add to the sum-total of human knowledge
3 about it, and particularly focused on their own areas, before
4 making a judgment.

5 I can't see -- more information might strengthen the
6 case for gambling, or it might weaken it, but it's got to be
7 desirable.

8 COMMISSIONER DOBSON: Madam Chair.

9 CHAIR JAMES: Commissioner Dobson.

10 COMMISSIONER DOBSON: 3.27 and 3.28 are very, very
11 similar, I think 3.28 is better. There's no sense going through
12 these one at a time if they are right along the same line.

13 COMMISSIONER LEONE: I agree with Jim. I'll withdraw
14 that motion.

15 CHAIR JAMES: Okay. 3.27 has been withdrawn. 3.28,
16 "The Commission recommends that the" -- will the seconder agree
17 to that? Who was that?

18 DR. KELLY: Yes. It was McCarthy.

19 CHAIR JAMES: Okay. "The Commission recommends that
20 the regulatory agency charged with the approval of a proposed
21 gambling facility should prepare and file a comprehensive
22 gambling facility impact study report, to be paid for by the
23 sponsoring or promoting gambling organization, to evaluate the
24 impacts that would be experienced by the host community as well
25 as other communities within a 50- mile radius, as a condition
26 precedent to the approval of a new gambling facility."

27 COMMISSIONER WILHELM: Well, I have the same problem
28 with this one as the last one. I'm not against the notion that

29 --

1 CHAIR JAMES: Before we go there, do we have a motion?
2 We may not have to discuss it.

3 COMMISSIONER WILHELM: I'm sorry.

4 COMMISSIONER LEONE: I'll move this one.

5 CHAIR JAMES: Okay. Is there a second?

6 COMMISSIONER DOBSON: Second.

7 CHAIR JAMES: It has been moved and seconded. Now.

8 COMMISSIONER WILHELM: I have the same problem with
9 this one as the last one. I don't have a difficulty with the
10 notion of recommending that jurisdictions ought to -- and I think
11 it should say "jurisdiction", not "regulatory agency" -- but --
12 because, for example, in the Tribal setting, it is not the
13 regulatory agency that makes this approval. It's not even the
14 Tribal regulatory agency. But with that small caveat, I don't
15 have a problem with the notion that people ought to take a look
16 at these things to the extent possible, but, again, if we've said
17 we don't know, I think we've got to at least say something like
18 "to the extent possible to evaluate the impacts", or something
19 like that.

20 And then with regard to this one, different from the
21 last one, we have -- I realize that all of us, myself included,
22 use colorful rhetoric when it tends to suit our purposes, and not
23 other times, but the number of other places in here where we've
24 used colorful rhetoric, which I don't necessarily agree with,
25 about the evils of having gambling organizations pay for various
26 kinds of studies because they are ipso facto suspect, and you can
27 find that in a number of places in stuff that we've already
28 talked about and even approved.

29 So, I think we need to be a little bit consistent on
30 both of these issues -- that is to say, we're either going to say

1 things ought to be paid or sponsored by gambling organization and
2 that that's good, or else we should not say that, and we
3 shouldn't say different things in different sections of the
4 report. And, secondly, I don't see how we can ask people to
5 evaluate the impacts, period. I think we've got to say something
6 like "to the extent possible", or something like that.

7 COMMISSIONER LANNI: Madam Chair.

8 CHAIR JAMES: Commissioner Lanni.

9 COMMISSIONER LANNI: I think if you go back to that
10 famous 5-to-4 vote on the moratorium and you look at the language
11 there, that more than covers this. This limits it to a 50-mile
12 radius, but basically in the pause you're supposed to be looking
13 at things. In consideration of the fact -- and I think John
14 mentioned it earlier -- if we make so many recommendations -- and
15 it may well be argued with or without recommendations we may be
16 little remembered nor long thought of at all relative to this --
17 but if we make so many recommendations -- I think this is a
18 limiting one. I think you have a better one, even though I voted
19 against it because of the word "moratorium", and didn't get the
20 opposite -- I think if you go back to 3.14, it more than
21 encompasses it, so I will not be in a position to vote for this.

22 CHAIR JAMES: Commissioner Dobson.

23 COMMISSIONER DOBSON: Yes. Developers are obviously
24 required to file an environmental impact report when they want to
25 change the landscape. Why would it not be appropriate for
26 gambling enterprises to look at the impact on people and the
27 surrounding culture? I think that is an extension of the same
28 idea.

29 COMMISSIONER LOESCHER: Madam Chair.

30 CHAIR JAMES: Commissioner Loescher.

1 COMMISSIONER LOESCHER: Madam Chair, these two
2 proposals sort of remind me of the story of the horse -- you
3 know, you're closing the gate after the horse has ran away -- and
4 here you have people who are responding, complying with public
5 policy/law that is in place, made by legislators and governors
6 and Congress people, and you're putting the burden on them.

7 The burden isn't on them, the burden is on the public
8 policymakers who allow these laws to get enacted and allow them
9 to be continued. Let's look at it. This could get down to bingo
10 operators, Class II bingo people, charitable organizations,
11 church groups, whatnot. This thing impacts the convenience store
12 business that we don't like very much, but there's thousands of
13 them. But there's a law that's in place that allows these things
14 to happen. The business of lottery outlets -- you know, if you
15 take this language, you can go to the extreme. Every place that
16 purveys this kind of activity can be subject to this language.
17 And I think this is a bottoms-up approach when really we should
18 be speaking to the Congress, to the state legislators, to
19 governors, and whatnot, to address the overall public policy, not
20 trying to deal with the horse after the gate is closed.

21 COMMISSIONER MOORE: Madam Chair.

22 CHAIR JAMES: Commissioner Moore.

23 COMMISSIONER MOORE: If we wanted to go along with
24 this, why not let the state pay for it? It would be paid for by
25 the state or the county and, by God, that would get the interest.
26 If the people in the county didn't want gambling, they probably
27 wouldn't want to pay for it. Or if the people in the state
28 didn't want gaming -- if the states want gaming and you don't
29 mind it, let the states pay for it.

30 CHAIR JAMES: Are you recommending a change in this?

1 COMMISSIONER MOORE: If it comes to -- has it been
2 seconded?

3 CHAIR JAMES: It has been. It's Leone and Dobson who
4 control the recommendation.

5 COMMISSIONER MOORE: Then I would recommend that we let
6 the states pay for it.

7 COMMISSIONER DOBSON: Again, going back to the analogy
8 of the developer, it would not make sense to me to have the state
9 pay for new development report, environmental impact report, it
10 would be new development. I think the new enterprise that stands
11 to gain from this approval or license should be the one to pay
12 for it.

13 COMMISSIONER MOORE: Well, in our state, we have a
14 program that's called -- I suppose it's still there, or a version
15 of it -- an old former governor -- we have a BAWI, balance
16 agriculture with industry. And all industries that come into our
17 state except gaming -- I think I'm correct -- we will do away
18 with the taxes, everything except school taxes, for five years,
19 or maybe ten years, to encourage them to come -- Chevron, places
20 of that nature. And so if the states -- all of us say -- I mean,
21 the reason I think that this Commission is in existence, the
22 Federal Government perhaps thought that maybe gaming was
23 expanding too fast. Well, it isn't now. I thought that's what
24 this Commission was about, to study the social and economic
25 impact.

26 So, if the states desire this, this will wake the
27 people up if they don't want it.

28 CHAIR JAMES: Commissioner Leone.

29 COMMISSIONER LEONE: I'm having difficulty
30 understanding some aspects of this discussion, even though I

1 think Terry has a point that the moratorium, by implication,
2 suggests that you have to look harder and know more before you
3 move further down the path towards more gambling.

4 I would have thought that it would be relatively
5 controversial to say that before a specific permission is
6 granted, a new exception to permit gambling, that there should be
7 a study of its impact on the area in which it will be
8 implemented. Indeed - - I didn't write this recommendation, but
9 I could imagine one that got much more specific about how to make
10 that rigorous investigation. In fact, in the real world, of
11 course, people prepare reports all the time, arguing the
12 advantages and disadvantages during a fight about legitimizing
13 some new gambling activity.

14 I can't really conceive of why this Commission would be
15 reluctant to say that, as a matter of routine, the decision to
16 expand gambling, however that is qualified, should be preceded by
17 a study of what we can find out about its likely pluses and
18 benefits. I think, as I said, that that's not a revolutionary
19 suggestion, that it's customary and, indeed, the greatest
20 weakness in this suggestion is that it doesn't suggest any way to
21 move beyond the kind of boilerplate stuff that is thrown up now
22 by both sides when gambling is being debated. I mean, as a
23 practical matter, as I have learned since I came on this
24 Commission and begun to follow these things, when there's an
25 actual fight going on, you know, people are not only hurling
26 studies at each other, they are hurling rocks and epithets, but I
27 suppose that I see this as part of -- maybe this is part of the
28 research agenda, but it's a disciplined routine process that
29 would go on and, over time, there is some learning involved. You
30 know, research on socio-economic issues is not like science, but

1 it does get better over time, as you try things and you learn
2 more about it. I see this in that context.

3 COMMISSIONER BIBLE: Well, I look at the recommendation
4 as being way overly broad in terms of application in the way it's
5 crafted. Where it indicates a proposed gambling facility, you
6 treat a casino with 500 slot machines and 75 table games the same
7 as you would a convenience store that's going to put in a lottery
8 terminal and the enormous economic impact on them, to conduct
9 this gambling impact study, which just seems to me to be
10 completely unreasonable.

11 CHAIR JAMES: Commissioner Wilhelm.

12 COMMISSIONER WILHELM: I do not agree with the concept
13 that Richard is describing here. And I also respectfully
14 disagree with what Bill just said. I think that the impact of
15 slot machines in a convenience store is actually a good deal of
16 analysis. Now, it may be that that analysis in certain places is
17 "well, it's all over the place anyway, what difference does it
18 make", but nevertheless I don't disagree with the concept this
19 stuff deserves analysis. I was trying to make points that did
20 not go to the overall concept. And, again, I think we've got to
21 be consistent in this report. I think we're going to totally
22 confuse anybody who bothers to read this -- if, indeed, anyone
23 does -- if on one page we are saying that there's no present-day
24 real way to actually assess the impacts and on another page we're
25 saying you've got to assess the impacts. I think we've got to
26 reconcile those, which I think is not that hard. I think, you
27 know, we say something like "To evaluate to the extent possible",
28 or something like that, the impacts.

29 Secondly, I don't think we ought to be saying on one
30 page that sponsoring organizations ought to be paying for stuff,

1 and then saying on a different page that when sponsoring
2 organizations pay for it, it's disgusting and outrageous and
3 useless, which we do say someplace in here, in some of the stuff
4 we've already drafted.

5 And on the particular point of how this is done in the
6 development business, there's actually multiple models. In some
7 jurisdictions, as Jim says, the developer is required to sponsor
8 and pay for and produce a study, and what then happens is those
9 opposed say, well, that study is biased, it was paid for by the
10 developer. In other jurisdictions, the public entity -- for
11 example, the Army Corps of Engineers does this all the time --
12 produces a study of the impact, and then people on both sides
13 attack that and say, well, they didn't know what they were doing,
14 they are government.

15 So, I support the concept to the extent possible, of
16 suggesting that jurisdictions, not regulatory agencies, evaluate
17 the impacts of additional gambling facilities. I think that
18 makes a great deal of conceptual sense. But I do think we need
19 to be consistent in this report. We can't just use whatever
20 rhetoric is convenient on whatever page we're on.

21 CHAIR JAMES: May I suggest that we add this to our
22 list of tabled motions, rather than --

23 COMMISSIONER DOBSON: Madam Chair, are we close on this
24 one?

25 CHAIR JAMES: Well, I was going to suggest Dick has
26 volunteered to work on some language that he could bring back to
27 us, maybe later today or first thing tomorrow morning. And if we
28 can do that, then we can simply vote on it and move on. If you'd
29 like to stay at it, I'm willing to stay and work on the language
30 right now, or we can table it, let Commissioners work on it --

1 COMMISSIONER DOBSON: Everything depends on how close
2 we are. It just felt to me like we could get it done. We're
3 going to have an awful lot to do to come back.

4 CHAIR JAMES: What did you think you heard that was
5 close? And if we can get that and we're there, then we can move
6 on.

7 COMMISSIONER DOBSON: Well, I would have to have
8 Richard restate what he said.

9 COMMISSIONER LEONE: Well, I'd need a little time to
10 think about how to phrase this.

11 COMMISSIONER DOBSON: Okay.

12 CHAIR JAMES: But he is willing to do that. And as
13 soon as he does, we'll bring it back up.

14 COMMISSIONER LANNI: Madam Chair?

15 CHAIR JAMES: Mr. Lanni?

16 COMMISSIONER LANNI: While he's doing that, I might ask
17 also, even though I'm opposed to this, I think he should try to
18 find for us what a new gambling facility is.

19 COMMISSIONER LEONE: Yes. That's part of the reason
20 I'm going to --

21 COMMISSIONER LANNI: Right.

22 COMMISSIONER LEONE: -- five slot machines or replacing
23 six slot machines, and that would be defined as a new facility.

24 CHAIR JAMES: With that, 3.29, the Commission
25 recommends that gambling cruises -- "cruises to nowhere" should
26 be prohibited unless the state passes legislation specifically
27 legalizing such. Is there a motion?

28 COMMISSIONER MOORE: Which one are we on? 29?

29 CHAIR JAMES: We are on 3.29, cruises to nowhere. The
30 Commission recommends that gambling "cruises to nowhere" should

1 be prohibited unless the state passes legislation specifically
2 legalizing such.

3 COMMISSIONER LEONE: So there will be no more
4 Commissions like this?

5 (Laughter.)

6 CHAIR JAMES: We're going somewhere, too. Just hold
7 on.

8 COMMISSIONER DOBSON: Madam Chair?

9 CHAIR JAMES: Commissioner Dobson?

10 COMMISSIONER DOBSON: I have substitute language for
11 this one because it's awkward in the way it's stated.

12 CHAIR JAMES: Would you like to go ahead and substitute
13 that language at this point?

14 COMMISSIONER DOBSON: I would.

15 CHAIR JAMES: Okay.

16 COMMISSIONER DOBSON: The Commission recommends that
17 gambling "cruises to nowhere" should be prohibited, unless the
18 state from which the cruise originates adopts legislation
19 specifically legalizing such cruises.

20 COMMISSIONER WILHELM: May I ask an informational
21 question before we get into this?

22 CHAIR JAMES: Yes, you can. Go ahead.

23 COMMISSIONER WILHELM: Personally, I would support this
24 if it's doable. I mean, the State of Massachusetts suddenly has,
25 you know, boats sailing out of Gloucester with gambling when
26 nobody in Massachusetts decided to do that.

27 But I was under the impression -- and this is certainly
28 not an area of expertise that I claim -- but I was under the
29 impression that when a boat goes out beyond the territorial

1 waters that nobody can regulate what goes on on that boat at that
2 time. So how could this be done, as a practical matter?

3 COMMISSIONER DOBSON: I'm not sure, but there is a bill
4 in Congress to do this. It must be possible.

5 (Laughter.)

6 CHAIR JAMES: I'm not sure I'd go out on that limb.

7 COMMISSIONER LANNI: I don't think there has been a
8 second.

9 CHAIR JAMES: There has not been a second. It was
10 moved. It's an informational question, so that we could decide
11 whether or not someone wanted to second it.

12 Aren't there -- and this is an informational question
13 as well. Aren't there some states that have legislation, those
14 of you who may know a little more about this, that prohibits such
15 cruises from leaving from their docks?

16 COMMISSIONER LEONE: Yes, there are.

17 COMMISSIONER BIBLE: You probably can get it by
18 outlawing possession of gaming devices within your borders.

19 COMMISSIONER LEONE: There is some way that they've
20 been able to block people from tying up and loading in the first
21 place.

22 CHAIR JAMES: Yes.

23 COMMISSIONER LEONE: But I think John is right. You
24 can't do anything about the fact that once somebody has done
25 that, if they go out of the territorial limits --

26 COMMISSIONER BIBLE: Because California took some
27 action. I don't recollect what it is, but --

28 COMMISSIONER LEONE: But I think we can't make a
29 recommendation here without, you know, some staff work that
30 indicates what the situation is.

1 CHAIR JAMES: Jim, I think I hear that there is some
2 consensus for doing something like that. We just need to make
3 sure that whatever we're doing passes -- is consistent with the
4 law.

5 COMMISSIONER DOBSON: Yes.

6 CHAIR JAMES: So could I assign that one to you for
7 staff to take you --

8 COMMISSIONER DOBSON: Sure.

9 CHAIR JAMES: -- and your staff to take a look at and
10 --

11 COMMISSIONER DOBSON: That would be fine.

12 CHAIR JAMES: -- and you can clarify that. We can just
13 vote on it quickly when that's resolved.

14 COMMISSIONER DOBSON: We'll just get the Congress to
15 explain to us.

16 CHAIR JAMES: What they mean.

17 COMMISSIONER WILHELM: I would just also -- I don't
18 mean to prolong this, Kay, but I would just want to say for the
19 record that this could fall into the category that Richard was
20 talking about earlier today where logic, you know, suggests that
21 we should do this. And it might be in that category.

22 But even though I am personally sympathetic to this
23 recommendation, it is squarely in the area that I have a grave
24 concern about, which is us making recommendations about subjects
25 upon which we have no record at all. I don't believe this ever
26 came up in the course of our discussion that I can recall.

27 CHAIR JAMES: Okay. With that, Jim, if you could work
28 on that --

29 COMMISSIONER DOBSON: Okay.

1 CHAIR JAMES: -- and when it comes back up, we will
2 discuss it at that time.

3 3.30, the Commission recommends that full disclosure of
4 odds and warning should be required on all forms of gambling
5 advertising, as well as the posting of toll-free help-line
6 numbers. Could that one somehow be combined --

7 COMMISSIONER MOORE: We already have it, I think.

8 CHAIR JAMES: -- with -- well, we talk about machines.
9 We didn't talk about advertising, I think, is --

10 COMMISSIONER BIBLE: Yeah, you're right. They should
11 be combined.

12 CHAIR JAMES: It was 3.21.

13 COMMISSIONER McCARTHY: Madam Chair, why don't we just
14 ask the staff to do that, and then --

15 COMMISSIONER BIBLE: But I think we need to have a
16 little direction in terms of gambling advertising. Are they
17 talking about advertising that is paid for by gambling facility
18 or operator, or is it advertising that deals --

19 CHAIR JAMES: By the state.

20 COMMISSIONER BIBLE: -- with gambling?

21 COMMISSIONER LANNI: That was the point I was going to
22 raise. I mean, if we have Barbara Streisand on New Year's Eve,
23 and we have an advertisement for her to come to see her in Las
24 Vegas, it has nothing to do with gambling directly. I don't
25 think that's the intent to -- although with what we're paying
26 her, it is a gamble. That's --

27 (Laughter.)

28 COMMISSIONER WILHELM: That is true. That is true. No
29 doubt about that.

1 COMMISSIONER LANNI: In fact, Barbara is tougher than
2 any Commissioner on this Commission.

3 (Laughter.)

4 CHAIR JAMES: Wait a minute, Terry. You've never heard
5 me say --

6 (Laughter.)

7 COMMISSIONER McCARTHY: How are you advertising those
8 one-round fights? Do you have any of those?

9 CHAIR JAMES: Those one-round fights?

10 COMMISSIONER LANNI: We've had a series of one-round
11 fights.

12 CHAIR JAMES: What was the intention here? And if we
13 can modify it to reflect sort of the will of the Commission, that
14 would be great, if we could move on that.

15 COMMISSIONER BIBLE: It has to originate from
16 lotteries, I would think, some concern about lottery advertising.

17 CHAIR JAMES: Well, I'm not sure.

18 COMMISSIONER BIBLE: Well, at this point, the only
19 advertising that's legal is gambling and tribal gambling.

20 COMMISSIONER WILHELM: Well, a number of commissions
21 have suggested that lotteries should be required to advertise
22 their odds. Richard and others have raised that.

23 CHAIR JAMES: Can we pass this one, until we get to
24 lotteries, to see if there is a more appropriate suggestion?
25 There are several on advertising that will come up a little
26 later. If not, I would ask the Commissioner who suggested this
27 one to bring it back up later, if we don't get that issue taken
28 care of. Can we pass that one? Anybody object?

29 COMMISSIONER LOESCHER: Wait. What are you passing?
30 This one? 3.30?

1 CHAIR JAMES: 3.30.

2 COMMISSIONER LOESCHER: Well, I object.

3 CHAIR JAMES: Okay. Well, then, let's vote.

4 COMMISSIONER LOESCHER: You know, you say all forms of
5 gaming or -- you know, we have horse racing, we have bingo, we
6 have lotteries, we've got everything, you know. Are you going to
7 do this kind of disclaimer on every form of advertising there is,
8 if it's charitable gaming?

9 CHAIR JAMES: Well, let's do this. Since we are moving
10 now from points of clarity and language, that what I need to hear
11 for this, then, is a motion. Would someone move that the
12 Commission recommend 3.30? Hearing no such motion, we don't have
13 to pass it. We just -- there is no will to do it.

14 3.31, the Commission recommends that advertisement for
15 forms of gambling legal in one state should not be permitted in
16 states where those activities are illegal.

17 COMMISSIONER LANNI: Just a point of information, I
18 think that's interstate commerce. I'm not so sure we're in a
19 position to make --

20 CHAIR JAMES: Well, is anybody making it?

21 Okay. 3.32, the Commission recommends that citizens of
22 each state with government-sponsored gambling be afforded the
23 right to sue the state government for violation of clearly-stated
24 advertising standards for state-run gambling operations.

25 COMMISSIONER McCARTHY: That was my brilliant idea.

26 COMMISSIONER LANNI: I don't think I would have
27 admitted to that, Leo.

28 COMMISSIONER LOESCHER: I raise a point of order to
29 your calendar, your agenda. Is lunch on the agenda?

30 CHAIR JAMES: We're --

1 (Laughter.)

2 Lunch is at 12:30. We're going to get there.

3 COMMISSIONER LOESCHER: It's at 12:30?

4 CHAIR JAMES: Yes.

5 COMMISSIONER MCCARTHY: This one is going to take --
6 this one will take about an hour or so. Is that okay?

7 CHAIR JAMES: No.

8 COMMISSIONER WILHELM: Commissioner Loescher had a 4:00
9 a.m. airplane night. I think he --

10 (Laughter.)

11 CHAIR JAMES: Oh, yeah.

12 COMMISSIONER LEONE: I have a question for Commissioner
13 McCarthy. What is the law in this area?

14 COMMISSIONER MCCARTHY: There is no law. This is -- I
15 think this came up during the course of a discussion with the
16 advertising panel.

17 CHAIR JAMES: But is anybody making this --

18 COMMISSIONER MCCARTHY: I am not making a motion.

19 CHAIR JAMES: Okay. Well, then, we don't need to spend
20 time there. The Commission recommends that states with lotteries
21 include a tax with each lottery ticket sold to make purchasers
22 conscious that they are indeed paying a tax. If it looks like a
23 tax --

24 COMMISSIONER LEONE: Okay. I --

25 CHAIR JAMES: Are you making that motion?

26 COMMISSIONER LEONE: Yeah, I move it. And I will
27 explain why.

28 CHAIR JAMES: Is it seconded? Well, let's see if we
29 get a second for it. Is there a second? Okay.

1 COMMISSIONER LEONE: I think that it's only just that
2 we do this. The states explained that they use the lotteries for
3 all of these good purposes -- widows, orphans, children, things
4 that otherwise would never happen. And they never explained that
5 the consequences of lotteries include presumably the generation
6 in pathological gamblers, and I think there ought to be a way to
7 remind people explicitly by having an earmarked tax for dealing
8 with problem gambling as part of the process of buying a lottery
9 ticket.

10 As I said when I mentioned this the first time, I want
11 it to be visible. I want it to be an irritant. I want it to be
12 a little piece of sand in the wheels that generate this 50, 60,
13 70 percent effective tax rate in a highly regressive fashion.
14 That is, in fact, what a lottery represents.

15 And I know there are people here who feel there is no
16 such thing as a good tax. There are people who feel it just --
17 it would be more efficient to simply allocate some of the
18 existing revenues for lotteries for these purposes.

19 But I think one of our -- if there is a single purpose
20 to this Commission, it is to bring to the attention of the
21 American people things about gambling that are not receiving
22 sufficient thought. And I'd like to have that happen every day
23 in every way in lots of states. Do I think this will be adopted?
24 Probably not. But I think it's well worth considering.

25 And I appreciate the second, Mr. McCarthy, particularly
26 on this one.

27 COMMISSIONER BIBLE: Question on --

28 CHAIR JAMES: Are you calling for the question?

29 COMMISSIONER LEONE: Yeah.

1 COMMISSIONER BIBLE: I think on this one this one is
2 pretty tough. I think we talked about it before. I don't think
3 you achieve your objective by making it an irritant, because it
4 will just be absorbed in the pricing structure. So if the ticket
5 is a dollar, and you add a five percent tax, instead of charging
6 \$1.05, they're just going to reprice the ticket, sell it for a
7 dollar, and dedicate the five cents to the lottery.

8 COMMISSIONER LEONE: Were you ever in government when
9 you raised the sales tax --

10 COMMISSIONER BIBLE: Oh, yeah.

11 COMMISSIONER LEONE: -- a penny?

12 COMMISSIONER BIBLE: Oh, yes.

13 COMMISSIONER LEONE: Did people seem to notice?

14 COMMISSIONER BIBLE: Well, a lot of people did, yeah.

15 COMMISSIONER LEONE: Did it become a political issue?

16 COMMISSIONER BIBLE: Yes. But in this term, they're
17 just going to reprice --

18 COMMISSIONER LEONE: I want to make lotteries a
19 political issue. I have four or five ideas about the way we
20 might make lotteries a political issue, because lotteries are --

21 COMMISSIONER BIBLE: Richard, they're just going to
22 reprice the ticket, and you'll probably end up making your
23 purchase of a lottery ticket tax deductible at the federal level.

24 (Laughter.)

25 COMMISSIONER LEONE: Bill, I just -- I retain some of
26 your boyish idealism about the fact that if you make things
27 issues, you sometimes get a good decision out of the American
28 people.

29 CHAIR JAMES: Commissioner Moore, did you --

1 COMMISSIONER MOORE: No. Well, Bill went on it from
2 the other way. Most of the athletic tickets and theater tickets
3 that you buy, you know, the price of an athletic ticket at
4 University of Mississippi, I believe at the present time, a
5 football game is \$24. And then it has a breakdown of how much is
6 for amusement tax, how much is state tax, and all of that, and
7 it's subtracted, instead of taking the \$24 ticket and adding all
8 of that on top and making it \$27.70.

9 So if they sold a lottery ticket for a dollar, and then
10 -- I would like to say, then, if you're going to put a tax on it,
11 a 10 percent tax, then maybe it will make the lottery say that
12 instead of \$20 million, it would be \$20 million, but the tax
13 you're paying now has brought it down to \$22 million some way,
14 because you're not really paying a full dollar for the prize that
15 you're going to win. You're only paying 90 cents.

16 And so those jackpots could be reduced likewise,
17 because I think the larger the jackpot the more play you get. I
18 mean, that's my -- what I hear people talk about. So you need to
19 cut -- if we could cut the jackpot --

20 COMMISSIONER LANNI: I move the question.

21 CHAIR JAMES: Move the question. All in favor?

22 (Ayes.)

23 All opposed?

24 (Nays.)

25 CHAIR JAMES: Oh, we're going to need a roll call.
26 Commissioner Bible?

27 COMMISSIONER BIBLE: No.

28 CHAIR JAMES: Commissioner Dobson?

29 COMMISSIONER DOBSON: Yes.

30 CHAIR JAMES: Commissioner Lanni?

1 COMMISSIONER LANNI: No.

2 CHAIR JAMES: Commissioner Leone?

3 COMMISSIONER LEONE: Yes.

4 CHAIR JAMES: Commissioner Loescher?

5 COMMISSIONER LOESCHER: Abstain.

6 CHAIR JAMES: Commissioner McCarthy?

7 COMMISSIONER McCARTHY: Aye.

8 CHAIR JAMES: Commissioner Moore?

9 COMMISSIONER MOORE: Aye.

10 CHAIR JAMES: Commissioner Wilhelm?

11 COMMISSIONER WILHELM: No.

12 CHAIR JAMES: Commissioner If-It-Looks- Like-a-Tax
13 James says no. One, two -- the motion fails.

14 Okay. One, two, three, four, and one abstention -- oh,
15 yeah, it is a tie. So it's a tie. It fails to be adopted.
16 Okay.

17 COMMISSIONER McCARTHY: Madam Chair, I move we go
18 without lunch today.

19 (Laughter.)

20 CHAIR JAMES: I have found the secret to this
21 Commission. Keep them hungry and they go right through.

22 Having said that, it is time for lunch.

23 I would just have this observation about our morning.
24 We have nine tabled motions that various Commissioners will work
25 on. My suspicion is that with a little bit of tweaking we can
26 get where we need to be on those various motions. If not, I will
27 bring them back up for a vote this evening, this afternoon, at
28 the end of the day.

29 I will remind Commissioners as we break for lunch what
30 those various motions are. For the benefit of those who are

1 following this proceeding, they were 3.3, 3.6, 3.8, 3.10, 3.11,
2 3.12, 3.15, 3.28, and 3.29. It may appear that we have not made
3 a great deal of progress. However, I believe that we have
4 because of several that we adopted that will eliminate quite a
5 few later on in the day.

6 I thank the Commissioners for their commitment, and we
7 will reconvene in exactly one hour, 1:30. Thank you.

8 (Whereupon, at 12:28 p.m., the
9 proceedings in the foregoing matter went
10 off the record for a lunch break.)

11

1 CHAIR JAMES: Please take your seats. With that, we'll
2 pick up where we left off. I would remind Commissioners that --
3 and for those of you who are following these deliberations, that
4 these are recommendations that have come from a variety of
5 sources.

6 Some of them are recommendations of individual
7 Commissioners. Some have been pulled from transcripts. Some
8 have come in by way of letter or e-mail. There was not any
9 attempt to edit them. I read them as they stand. If there is no
10 motion on the recommendation, it dies and I move on to the next
11 one.

12 I recognize that some of the recommendations that we
13 will cover this afternoon have been addressed in other places. I
14 will simply read them. If we are, as a Commission, content with
15 the fact that that issue has been dealt with, my suggestion is
16 that we not open that up for discussion again, that we simply
17 move on.

18 With that, we are at 3.34. The Commission recommends
19 that states, tribes, and local governments declare a moratorium
20 on the introduction of new lottery games in those states which
21 already have lotteries, and to refrain from introducing them in
22 those states which presently do not have lotteries. Is there a
23 motion?

24 Hearing none, the Commission recommends that states
25 with lotteries reduce their sales dependence on low income, less
26 educated minorities and heavy players in a variety of ways,
27 including limiting advertising and number of sales outlets in low
28 income areas. Is there a motion?

29 COMMISSIONER DOBSON: Moved.

1 CHAIR JAMES: Is it seconded? Hearing none, the
2 Commission recommends that states with lotteries create a private
3 citizen oversight board. The board would make data-based policy
4 decisions on types of games to offer marketing strategies to
5 follow, etcetera. As I said, I don't edit them.

6 COMMISSIONER BIBLE: I'll move that.

7 CHAIR JAMES: It has been so moved. Is there a second?

8 COMMISSIONER McCARTHY: For the purposes discussion.

9 CHAIR JAMES: For purposes of discussion, Commissioner
10 Leo McCarthy seconds. We're ready for discussion.

11 COMMISSIONER BIBLE: Some states already do this. Most
12 states do not. What this would do would be to recommend that all
13 states create a policy-making board that would oversee the state
14 lottery and set practices for advertising and marketing and where
15 the games are marketed, which would be somewhat similar to the
16 recommendation in 3.35.

17 CHAIR JAMES: Any further discussion? Are you --

18 COMMISSIONER McCARTHY: I do. There's a basic point
19 here in a couple of these, as Commissioner Bible just pointed
20 out. It's an attempt, I think, to separate the regulatory from
21 the promotional side within state government. I'm not sure
22 that's what Mr. Bible had in mind, but I think that's what is
23 suggested in one or two others that I've read here.

24 COMMISSIONER BIBLE: Well, what I was suggesting was
25 that you create a board of directors of the state lottery that,
26 in effect, would be the policy and regulatory board, to a large
27 extent, for that lottery that would set the policy as to all of
28 that lottery's practices. It would not necessarily be the
29 Chairman of the Ways and Means Committee saying, "Hey, you know,
30 we need to generate another \$100 million. Can you do it for us?"

1 COMMISSIONER McCARTHY: How many states are there that
2 don't have boards of directors like that now? Do you have any
3 idea?

4 COMMISSIONER BIBLE: That I don't know. We had some
5 information supplied to us by the lottery directors, and I just
6 don't recollect the information. I do recollect it was fairly
7 specific information that indicated there was four or five states
8 that had particularly effective regulatory boards or independent
9 boards that oversee the work of the lottery.

10 COMMISSIONER McCARTHY: California has a board, I know.

11 COMMISSIONER BIBLE: Don't know.

12 COMMISSIONER McCARTHY: It does, yeah.

13 CHAIR JAMES: Any further discussion? Call for the
14 question. All in favor?

15 (Ayes.)

16 Any opposed?

17 (No response.)

18 The Commission recommends that states with lotteries
19 improve their enforcement procedures regarding age limits for
20 playing the lottery. Is there a motion?

21 COMMISSIONER BIBLE: Well, I will move that.

22 CHAIR JAMES: Is there a second?

23 COMMISSIONER DOBSON: Second.

24 CHAIR JAMES: It has been moved and seconded.

25 COMMISSIONER WILHELM: Could I just ask whether the
26 next one might not be more comprehensive or something? I don't
27 have any problem with this one. I am just trying to avoid
28 duplication.

29 CHAIR JAMES: It is. And that one I think is worded
30 much more comprehensively. Would the maker of the motion --

1 COMMISSIONER BIBLE: I like it better.

2 COMMISSIONER DOBSON: I will --

3 CHAIR JAMES: Well, then, we will pass that one and
4 move to 3.38. The Commission recognizes that lotteries and
5 convenience gambling may play a significant role in the
6 development of youthful gamblers. Further, the Commission
7 recommends that states, tribes, and local governments enact and
8 enforce harsh penalties for abuse in this area involving underage
9 gamblers. Penalties and enforcement efforts regarding underage
10 gambling should be greatly increased.

11 COMMISSIONER BIBLE: I'll move that.

12 CHAIR JAMES: So moved. Second?

13 COMMISSIONER DOBSON: I second it.

14 CHAIR JAMES: It has been moved and seconded.
15 Discussion?

16 COMMISSIONER BIBLE: Well, this is a much broader
17 recommendation. We're already on record indicating that all
18 forms of legalized gambling should only be available to someone
19 who is 21 years or older.

20 And I think it's appropriate, especially in the areas
21 of lotteries -- and I consider lotteries to be a form of
22 convenience gaming -- that they be appropriately policed to
23 prevent youthful gamblers from engaging in that activity.

24 I think as you enforce it, you enforce it not only
25 against the operator of the game who may encourage or may not
26 take positive steps to discourage youthful participation, but you
27 also enforce it against the individuals that challenge the game,
28 the minors that have victimized the convenience gaming operation.

29 COMMISSIONER McCARTHY: May I ask a question?

30 CHAIR JAMES: Certainly.

1 COMMISSIONER McCARTHY: We've sort of touched this in a
2 couple of previous discussions. I like this language very much.
3 Why don't we apply it to all forms of government-owned and
4 operated gambling? Why do we limit it to these two areas, even
5 if we think it's more needed in these two areas? And there is
6 some indication that it is needed more in lotteries because it is
7 less regulated.

8 COMMISSIONER BIBLE: Okay. If you --

9 COMMISSIONER McCARTHY: And it --

10 COMMISSIONER BIBLE: -- just government- owned and
11 operated, you're not going to pick up convenience gambling.

12 COMMISSIONER McCARTHY: I'm sorry. I didn't mean to
13 exclude the convenience gambling. Just I -- let me remove my
14 limitation. I mean --

15 COMMISSIONER BIBLE: All forms of gambling?

16 COMMISSIONER McCARTHY: Yeah.

17 COMMISSIONER LANNI: The standard language that we're
18 looking for.

19 CHAIR JAMES: Right.

20 COMMISSIONER LANNI: The standard language.

21 CHAIR JAMES: Correct.

22 COMMISSIONER McCARTHY: Yes.

23 COMMISSIONER WILHELM: Well, I don't have any problem
24 with that approach, with respect to the second and third
25 sentences. I think that there is a record here to support the
26 first sentence as it stands. Now, I don't know how we make all
27 of this fit together.

28 But in other words, I think there is a record here to
29 suggest that lotteries and convenience gambling may indeed play a
30 significant role in the development of youthful gamblers. After

1 that, I would support, as Leo was suggesting, applying these next
2 two sentences to all forms of gambling, which I don't know quite
3 what to --

4 COMMISSIONER BIBLE: Well, my suspicion would be that
5 lotteries and convenience gambling is less well policed than
6 other forms of gambling. I believe that was one of the findings
7 in the NORC survey where they indicated casinos were very good at
8 policing, or the most effective in policing youthful gambling
9 within their premises. But if it's broadened out, I think we
10 ought to give some increased emphasis to lotteries --

11 COMMISSIONER McCARTHY: That's fine.

12 COMMISSIONER BIBLE: -- and convenience gambling, but I
13 think it should --

14 COMMISSIONER McCARTHY: Especially since --

15 COMMISSIONER BIBLE: But I think it should apply to all
16 forms of gambling.

17 CHAIR JAMES: Do either of you have any recommended
18 language --

19 COMMISSIONER WILHELM: Yeah.

20 CHAIR JAMES: -- that would get us there?

21 COMMISSIONER WILHELM: Yeah. What if we leave the
22 first sentence like it is, and then we say, "With respect to all
23 forms of gambling, the Commission recommends that states, tribes,
24 and local governments enact and enforce harsh penalties,"
25 etcetera?

26 CHAIR JAMES: With respect to all forms of gambling.

27 COMMISSIONER McCARTHY: That's fine. That's fine.

28 COMMISSIONER LANNI: We have said before with all forms
29 of legalized gambling.

30 CHAIR JAMES: All forms of --

1 COMMISSIONER WILHELM: True.

2 CHAIR JAMES: -- legalized gambling. Having said that,
3 Commissioner Dobson?

4 COMMISSIONER DOBSON: Well, we've had testimony several
5 times, including the conclusions from the NRC, that all forms --
6 that young people get involved in all forms of legalized
7 gambling, including casinos, and especially riverboat casinos.

8 COMMISSIONER WILHELM: Well, our research shows that
9 it's minuscule in the casino area.

10 COMMISSIONER BIBLE: And I think it would be less in
11 the riverboat area because they control access over our
12 gangplanks.

13 COMMISSIONER DOBSON: Well, I remember the reports.
14 Some of them may have been your favorite State of Louisiana, as I
15 recall.

16 COMMISSIONER McCARTHY: We just amended this to apply
17 to the sentence that says that -- that all governments enforce
18 and enact harsh penalties for abuse in this area, regarding
19 underage to all forms of legal gambling.

20 COMMISSIONER DOBSON: Well, I can live with that.
21 Obviously, the first sentence there is -- by not mentioning other
22 forms of gambling, you're assuming that they don't play a role --
23 a significant role in the development of youthful gamblers. And
24 I think they probably do, and I think we've got testimony to that
25 effect.

26 COMMISSIONER LANNI: However --

27 COMMISSIONER MOORE: I believe we've got that covered
28 elsewhere. That's covered.

29 CHAIR JAMES: Okay. The motion, as it stands right
30 now, is the Commission recognizes that lotteries and convenience

1 gambling may play a significant role in the development of
2 youthful gamblers. Further, with respect to all forms of
3 legalized gambling, the Commission recommends that -- and then it
4 goes on from there. Is that okay?

5 COMMISSIONER BIBLE: It's okay with me.

6 COMMISSIONER LANNI: I would move the question.

7 CHAIR JAMES: All in favor?

8 (Ayes.)

9 Any opposed?

10 COMMISSIONER DOBSON: Opposed.

11 CHAIR JAMES: Okay. 39. The Commission recommends --
12 you've got to give credit for trying here, John. The Commission
13 recommends that state and local governments grant relief to
14 taxpayers through reductions in the present size and cost of
15 government through restructuring, privatization, and other
16 efficiencies, prior to considering lotteries as a means of
17 additional income and government growth.

18 Having said it for the record, I will not offer that as
19 a recommendation, but just as a strong encouragement that we
20 ought to recognize that there are some opportunities to -- for
21 states to consider revenue other than just taxing its citizens,
22 as I believe you have said so eloquently through the regressive
23 tax of lotteries.

24 Having said that, unless someone else would like to
25 offer that.

26 40, the Commission recommends to state governments that
27 in light of recent public concerns and reviews of lottery,
28 vendors, and other states, each state attorney general review
29 lottery vendors and subcontractors for questionable business
30 practices in their state and other states.

1 The Commission further recommends that if this review
2 reveals inappropriate practices in other states, the state
3 attorney general begin an immediate review of the state contract
4 with the vendor or subcontractors.

5 COMMISSIONER BIBLE: That's covered, to a large extent,
6 under 31.

7 CHAIR JAMES: Yeah. Hearing no motion, 41, the
8 Commission recommends that state-sponsored lottery, marketing,
9 and advertising should be banned or strictly curtailed. If
10 allowed to continue, truth in advertising standards should be
11 rigorously applied. Do I hear a motion?

12 Hearing none, the Commission recommends that regardless
13 of whether advertising is curtailed, all lotteries, state
14 operated or otherwise, should be required to disclose clearly,
15 and in an obvious readably visible form, the odds of winning.
16 Didn't we cover that on another one?

17 COMMISSIONER LANNI: Yeah.

18 COMMISSIONER BIBLE: Yes.

19 CHAIR JAMES: Do I hear a motion on that one? I think
20 it's been covered.

21 COMMISSIONER DOBSON: I think it has.

22 CHAIR JAMES: The Commission recommends that a social
23 impact statement similar to an environmental impact statement
24 should be a condition of introducing any new statewide game run
25 by a state lottery. I think that that one is being tabled and
26 worked on right now, and so we're going to eliminate that one.

27 COMMISSIONER McCARTHY: Mr. Leone is going to bring us
28 the -- bringing them together like --

29 COMMISSIONER LEONE: I'm going to try.

30 CHAIR JAMES: We know you will.

1 (Laughter.)

2 44, the Commission recommends that whenever a casino is
3 placed within 50 miles of a border with another state, a compact
4 between those states be negotiated. The compact would address
5 the issues of competition across state lines for gambling revenue
6 to the satisfaction of both states. Was that one not included in
7 --

8 COMMISSIONER BIBLE: We've had this one three times
9 already.

10 COMMISSIONER DOBSON: That was --

11 CHAIR JAMES: Yeah.

12 COMMISSIONER DOBSON: That's tabled, too, isn't it?
13 Isn't that being --

14 CHAIR JAMES: Yes.

15 COMMISSIONER DOBSON: -- worked on?

16 CHAIR JAMES: Yes, it is. So we will eliminate that
17 one.

18 The Commission recommends that warning labels should be
19 placed on every gambling device. I think that one came up
20 earlier this morning. And we're done. Did that language not say
21 device earlier?

22 COMMISSIONER BIBLE: I think it said all games, odds
23 and warnings, all games.

24 CHAIR JAMES: But I think we raised -- you raised the
25 question --

26 COMMISSIONER BIBLE: You can't do the odds on games.

27 CHAIR JAMES: Yeah. So I think that one was covered,
28 correct?

29 COMMISSIONER DOBSON: We said where feasible --

30 CHAIR JAMES: Right.

1 COMMISSIONER DOBSON: -- the other one.

2 CHAIR JAMES: Right. The Commission recommends that
3 casino-style gambling should be confined to tourist destinations,
4 whereby individuals have to make an effort to travel to gamble.

5 COMMISSIONER WILHELM: What? Gambling when?

6 CHAIR JAMES: The Commission recommends that
7 casino-style gambling should be confined to tourist destinations.
8 Is there a motion?

9 Hearing none, the Commission recommends that all states
10 with commercial gambling operations should adopt statutes
11 prohibiting political campaign contributions by casino license
12 holders, similar to the one existing in New Jersey. This is on
13 3.47.

14 COMMISSIONER WILHELM: In the interest of getting some
15 discussion about campaign contributions, I'll move this.

16 CHAIR JAMES: Is there a second?

17 COMMISSIONER McCARTHY: And I will second it.

18 CHAIR JAMES: It has been moved and properly seconded.
19 Discussion?

20 COMMISSIONER DOBSON: Madam Chair, I'd like to have
21 somebody review for us what the New Jersey model is.

22 COMMISSIONER LEONE: Bill probably knows better than I.

23 COMMISSIONER BIBLE: I can remember when it was first
24 --

25 COMMISSIONER LEONE: I don't give to anybody, so I'm --
26 (Laughter.)

27 COMMISSIONER WILHELM: With the New Jersey model, the
28 casinos don't give directly, and they give all they want
29 indirectly. That's the New Jersey model.

30 COMMISSIONER BIBLE: No, I --

1 (Laughter.)

2 That's what it is.

3 COMMISSIONER LANNI: Yeah. But to be more technical --

4 (Laughter.)

5 -- it is prohibited for city, county, and state races.

6 Obviously, federal races are not controlled by the state, so

7 there is no limitation on federal races. That's a federal issue.

8 That's the New Jersey model. It generally is the model in most

9 jurisdictions, if I'm not mistaken. I know in Michigan you're

10 not allowed to give, and I don't know what it is in Mississippi.

11 In Louisiana, they make the rules up as they go along.

12 COMMISSIONER DOBSON: That's --

13 (Laughter.)

14 COMMISSIONER BIBLE: Probably in Louisiana you're

15 required to give.

16 (Laughter.)

17 CHAIR JAMES: What is your pleasure? We are discussing

18 this. We have some --

19 COMMISSIONER LANNI: Are you looking for a second?

20 CHAIR JAMES: No, we have a second.

21 COMMISSIONER LEONE: Well, I take it from a couple of

22 the comments that -- since I know none of my colleagues are

23 cynical --

24 (Laughter.)

25 -- I take it from a couple of the comments that

26 campaign finance reform has worn down a couple of Commissioners.

27 But that doesn't mean that campaign finance reform is a bad idea,

28 or that the notion of prohibiting contributions to state and

29 local and county officials in a state that has a highly regulated

30 gambling industry is a bad idea.

1 So I don't know if we want to have a reference to New
2 Jersey or we want more generic language. But I think it's a good
3 idea.

4 CHAIR JAMES: Commissioner Wilhelm?

5 COMMISSIONER WILHELM: If I were approaching this from
6 the narrow self-interests of our union, the union that I
7 represent, I'd probably be for it, because in a narrow sense it
8 would probably be great for us if the employers for whom our
9 members work were politically hamstrung, and the union could do,
10 you know, the things that every other organization in America can
11 do.

12 But I'm not comfortable approaching it that way. I
13 have a lot of trouble with this. I personally support --
14 vigorously support campaign finance reform in this country. I
15 think campaign finance in this country is obscene, and I think
16 that we are not going toward but already arrived at the point in
17 our political dialogue where no idea, however meritorious, is
18 going to get the time of day politically unless it's backed up by
19 enormous, almost incomprehensible sums of money.

20 So I very much support campaign finance reform, even
21 if, as Richard suggests, some people may think that's futile.
22 But I do not understand the argument for singling out one
23 particular industry. Secondly, based on my observations of the
24 New Jersey exchange -- and I was not really being facetious
25 before, although I may have said what I said facetiously or in a
26 facetious tone -- the fact is that my observation is that casino
27 companies in New Jersey find plenty of ways to make their dollars
28 have an impact in New Jersey politics, and I don't -- I'm not
29 suggesting illegally. I want to be clearly understood.

1 But, you know, through individuals and through related
2 firms and through suppliers and vendors and professional firms,
3 and etcetera, and so forth. I don't think they have any shortage
4 of an ability to make their money --

5 COMMISSIONER WILHELM: Well, in this --

6 COMMISSIONER WILHELM: And then, just finally, you
7 know, I am probably overly sensitive to this because in many
8 states in the union -- 31 to be exact, including Nevada and
9 California and a number of others -- last year there was a
10 concerted effort, and financed by enormous sums of money from a
11 handful of individuals, to hamstring the legitimate political --
12 financial political activity of union members.

13 And having spent so much energy defeating that, I am
14 very sensitive to any corner of our society being singled out for
15 political hamstringing. So I support campaign finance reform,
16 but I do not support singling out a particular industry.

17 I mean, if we're going to single out the gambling
18 industry, for example, why do we let the tobacco industry make
19 political contributions? Why do we let the automobile industry
20 make political contributions? You know, they campaign against
21 auto safety devices a lot of the time. So I am very troubled by
22 the notion of singling out this or any industry.

23 COMMISSIONER BIBLE: And this recommendation really
24 doesn't single out the industry. This recommendation only
25 singles out casino license holders. Pari-mutuel license holders
26 would be able to continue to contribute. Tribal gaming would be
27 able to continue to contribute under this particular
28 recommendation.

1 And I'm more fundamentally concerned about the
2 recommendation, as are you, that it doesn't apply to automakers
3 and oil people and tobacco interests and everyone else.

4 COMMISSIONER WILHELM: I don't think, for example, that
5 the states could prohibit tribal gambling entities from -- or
6 tribes that have gambling from contributing. I'm troubled by
7 this.

8 COMMISSIONER DOBSON: Madam Chair, I'm very troubled by
9 our not having -- if we wind up not having a recommendation in
10 regard to this issue, because the enormous amounts of money that
11 are available from the gambling industry, and the influence that
12 is being had -- being demonstrated throughout the democratic
13 process, I am very, very concerned about that. And I think we
14 should address it.

15 Now, whether or not we single out casinos or we broaden
16 that is another matter. But I would really hate to see us not
17 have some statement about the influence of gambling on the
18 democratic process.

19 CHAIR JAMES: Jim, that was just the discussion that we
20 were having down here. It seems to unfairly focus purely on the
21 casino industry when, in fact, when you look at some of the past
22 election history, it wasn't necessarily casinos. In some cases,
23 it was convenience gambling and some of the --

24 COMMISSIONER DOBSON: Lotteries.

25 CHAIR JAMES: -- the lotteries, and that sort of thing.
26 So I have a problem with how it is particularly worded here, and
27 I was asking Dick if he would consider some other language that
28 would capture the spirit of what we're trying to say here.

29 COMMISSIONER LEONE: I would consider that, and might
30 consider including tobacco companies and a great many others.

1 (Laughter.)

2 CHAIR JAMES: For the purposes of this Commission,
3 however, could we just leave it to the gambling industry? Well,
4 can we table that one, and see if you can capture the spirit of
5 what we're trying to say here and come back to it? Or do you
6 think you have something right now?

7 COMMISSIONER LEONE: No. I'd be glad to take another
8 crack at it.

9 CHAIR JAMES: Then we will table that one. That's 47.
10 48, the Commission recommends that states that permit
11 convenience gambling operations should begin an immediate and
12 thorough reassessment of such operations for the purpose of
13 determining whether such operations merit continuance. This was
14 covered in the moratorium language.

15 COMMISSIONER LANNI: Right. It would have been.

16 CHAIR JAMES: Is there a motion?

17 COMMISSIONER LEONE: Yeah. I think it's in the other
18 language.

19 CHAIR JAMES: Hearing none, the Commission -- we're on
20 3.49. The Commission recommends that pari-mutuel locations
21 should be barred from allowing anyone under age 21 in areas where
22 gambling transactions occur. Those under age 21 should only be
23 permitted in the grandstand or other viewing area. Is there a
24 motion?

25 COMMISSIONER McCARTHY: I'm not sure whether I
26 understand why this is limited to pari-mutuel operations.

27 CHAIR JAMES: I think this came about, Leo, in our
28 discussions during that particular portion of the document. And
29 the concern was that they may come to view the race but parents

1 not want them involved or exposed to gambling. And so it came
2 out as a result of that particular discussion that we had.

3 COMMISSIONER WILHELM: How is that different from
4 families that go in a grocery store that has slot machines?

5 COMMISSIONER BIBLE: Or a lottery terminal.

6 COMMISSIONER WILHELM: Or a lottery terminal in a 7-11.

7 COMMISSIONER LANNI: I don't think it would work.

8 CHAIR JAMES: Has anyone moved this? Kate, can you
9 find that one for us and see if you can figure out where that
10 came from?

11 COMMISSIONER DOBSON: Say that again.

12 COMMISSIONER BIBLE: On your list.

13 COMMISSIONER DOBSON: I'm sorry?

14 COMMISSIONER BIBLE: She said it's on your list.

15 COMMISSIONER DOBSON: On my list. Well, when you've
16 got lots of children, sometimes you don't recognize them on the
17 street.

18 (Laughter.)

19 CHAIR JAMES: What the Commissioner meant to say was --

20 COMMISSIONER BIBLE: Just name them all George.

21 (Laughter.)

22 CHAIR JAMES: Do I hear a motion? Hearing none, the --

23 COMMISSIONER BIBLE: Well, before we move on, just for
24 discussion purposes, the first part of the recommendation is a
25 loitering recommendation, that you don't want individuals under
26 21 years of age to be loitering on the premises where gambling
27 transactions are occurring. And that would seem reasonable to
28 incorporate into the age restriction recommendation. At least
29 that's, I think, what you're --

30 COMMISSIONER WILHELM: So there's no motion.

1 COMMISSIONER BIBLE: It's a loitering recommendation.

2 CHAIR JAMES: Right.

3 COMMISSIONER McCARTHY: Isn't there -- didn't we pass
4 something about 21?

5 CHAIR JAMES: We did.

6 COMMISSIONER McCARTHY: Does it cover --

7 COMMISSIONER BIBLE: It should be because that's a
8 prohibition -- engaging the activity.

9 CHAIR JAMES: Tim, can you include that in the
10 loitering?

11 COMMISSIONER BIBLE: The second part is that you only
12 want the kids in the grandstands, which excludes them from the
13 paddocks and the barns and everything else, which to me would
14 make no sense.

15 CHAIR JAMES: All right. I've asked Dr. Kelly if he
16 would include that in that other recommendation.

17 50, the Commission recommends that casino- style
18 gambling should be permitted at racetracks only in such cases as
19 the state has determined that the introduction of casinos should
20 be a net benefit to the state. Such gambling should not be
21 permitted solely to save a racetrack that the market has
22 determined no longer serves the community. Did we not address
23 this one?

24 COMMISSIONER BIBLE: I think we addressed it by
25 postponing it until this one.

26 COMMISSIONER WILHELM: Yes.

27 CHAIR JAMES: So now we've --

28 COMMISSIONER BIBLE: Yeah. We moved the ball down to
29 this area.

1 CHAIR JAMES: It's fish or cut bait. Okay. Do I hear
2 a motion?

3 COMMISSIONER LEONE: I'll move that.

4 CHAIR JAMES: Do I hear a second? It has been moved
5 and properly seconded. Discussion?

6 COMMISSIONER DOBSON: I'm a little concerned about the
7 statement that says, "The state has determined that the
8 introduction of casinos would be a net benefit to the state."
9 That's really wishy-washy. I mean, the state is always going to
10 come up with that. What do they need to make that determination?

11 COMMISSIONER LEONE: Yeah. I think Jim has got a
12 point. I think what we really need to say here is that where a
13 state is legalizing casino-like gambling, and decides that
14 existing racetrack locations are among those places where it
15 wants to permit such gambling, that's one kind of decision.

16 Where a state is being asked to add casino-style games
17 to a racetrack in order to keep it economically viable as a
18 stand-alone decision, that's a very different kind of decision
19 that bothers us. That's the slippery slope argument.

20 COMMISSIONER WILHELM: Yeah. But isn't that what this
21 says? Am I missing something?

22 COMMISSIONER LEONE: Well, I think it does sort of.
23 It's not as clear as it could be, but I think it does.

24 COMMISSIONER McCARTHY: Sounds like another one for Mr.
25 Leone to --

26 COMMISSIONER LEONE: It's not one I wrote. I mean, I'm
27 not -- can't we work this out right now?

28 CHAIR JAMES: Yes, let's. The Commission recommends
29 that casino-style gambling should be permitted at racetracks.

1 Jim, how would that language -- or could that language
2 be changed to get rid of the troublesome part only in the case --

3 COMMISSIONER DOBSON: I haven't yet thought that
4 through. I just know I don't like what's here.

5 CHAIR JAMES: Okay.

6 COMMISSIONER DOBSON: Do you want to give me an
7 opportunity to work on that?

8 CHAIR JAMES: Yes. Can we pass it for right now?
9 Would anyone object to that?

10 COMMISSIONER McCARTHY: Madam Chair, while I'm thinking
11 about it, I meant to suggest this earlier, in all of these
12 recommendations that are clearly to the state level, may I
13 suggest that the recommendation be made specifically to the
14 governor and the state legislature?

15 CHAIR JAMES: I have a note to that effect, and what I
16 would suggest, Leo, is that we hold any action on that until --

17 COMMISSIONER McCARTHY: That's fine.

18 CHAIR JAMES: -- we get through the end.

19 COMMISSIONER McCARTHY: That's fine.

20 CHAIR JAMES: And then see if that still looks
21 appropriate.

22 COMMISSIONER McCARTHY: And that could even be in one
23 introductory sentence and doesn't have to be repeated in every
24 instance.

25 CHAIR JAMES: Right.

26 COMMISSIONER LANNI: Leo, one reason you may not want
27 to do that is in certain states the regulators have, through
28 regulation, the ability to do these things without the
29 requirement or need to go to the legislative process. So I'm not
30 so sure you should limit it.

1 COMMISSIONER McCARTHY: If it's just a regulatory
2 change where there is already statutory authority for them to
3 promulgate regulations, then we should include that.

4 CHAIR JAMES: My note to myself says to the governor,
5 state legislatures, or regulators, as appropriate. And we should
6 review all of those recommendations with that -- regulatory
7 bodies.

8 All right. So we passed 50. And, Jim, you're going to
9 continue to work on that one, to get rid of that --

10 COMMISSIONER DOBSON: Right.

11 CHAIR JAMES: -- troublesome language.

12 COMMISSIONER DOBSON: Right.

13 CHAIR JAMES: 51, the Commission recommends that state
14 legislatures should prohibit the introduction of slot machines
15 and other electronic devices into off-track betting facilities.
16 Is there a motion?

17 Hearing none, 52, the Commission recommends that
18 betting on collegiate athletic events that is currently legal be
19 banned altogether -- recommends that betting on collegiate
20 athletic events -- that wording is horrible, but that's what it
21 says -- is currently -- be banned altogether.

22 COMMISSIONER DOBSON: Madam Chair, 3.52 and 3.53 are
23 two sides of the coin. They are opposites or contrasting
24 statements. We probably ought to look at them together, I would
25 think.

26 COMMISSIONER BIBLE: We don't think we could blend
27 those two here?

28 (Laughter.)

29 COMMISSIONER DOBSON: That's called a consensus report.

1 CHAIR JAMES: Why don't we take a look at 52, look at
2 that together before we entertain any motions.

3 COMMISSIONER DOBSON: Then I move that we accept 3.52.

4 CHAIR JAMES: Well, Jim, I was going to suggest that we
5 look at 52 and 53 together.

6 COMMISSIONER DOBSON: I thought you said we were going
7 to come back and take them individually.

8 CHAIR JAMES: No, no, no, no. I was suggesting that we
9 look at them together as one --

10 COMMISSIONER DOBSON: That was my suggestion.

11 CHAIR JAMES: Right. I was agreeing with that.

12 COMMISSIONER DOBSON: Okay. Help me out here, Jim.

13 COMMISSIONER BIBLE: And I suggested 53, and I detected
14 a complete lack of appetite the day I suggested that -- that kind
15 of a recommendation to legalize sports wagers.

16 COMMISSIONER WILHELM: That's a fair statement. That's
17 a bit of an understatement.

18 COMMISSIONER DOBSON: I was quoted as saying, "My
19 goodness," when you did that.

20 CHAIR JAMES: So are you willing to --

21 COMMISSIONER BIBLE: I could hear you exhale the --

22 (Laughter.)

23 COMMISSIONER LEONE: So that means you'll support 3.52,
24 then.

25 CHAIR JAMES: Well, no, we haven't gotten to the
26 motions and seconds yet. We're looking at those two in terms of
27 language. Did I understand you to say that, Bill, when we --
28 that you would not necessarily move 53?

29 COMMISSIONER BIBLE: Well, I don't think 53 is going
30 anywhere, so we might as well not waste our time on it.

1 CHAIR JAMES: Okay. So that's gone. So now we're at
2 3.52, and I want to see if there is a motion for 3.52, and if we
3 can get a second.

4 COMMISSIONER DOBSON: There is a motion.

5 CHAIR JAMES: There is a motion. Okay. And do I hear
6 a second?

7 COMMISSIONER LEONE: I'll second it.

8 CHAIR JAMES: We have a second. Discussion? 3.52.

9 COMMISSIONER McCARTHY: May I suggest that we not limit
10 it to collegiate events, but rather to amateur events? There
11 could be betting on amateur events at levels other than college.

12 CHAIR JAMES: That would have to be a friendly
13 amendment. Dr. Dobson, would you have any opposition to that?

14 COMMISSIONER BIBLE: That really broadens it. Explain
15 your rationale again.

16 COMMISSIONER McCARTHY: Well, that --

17 COMMISSIONER DOBSON: I think it implies young people.
18 It implies the NCAA type of activity, and it wouldn't be limited
19 to that but that's kind of where we're headed with it. But if
20 you take all --

21 CHAIR JAMES: How about collegiate and amateur?

22 COMMISSIONER DOBSON: -- all amateur, that could be
23 soccer clubs for people, you know, 30 or older, or what have you.

24 CHAIR JAMES: Well, Jim, would you be opposed to
25 collegiate and amateur?

26 COMMISSIONER BIBLE: That would probably be more
27 accurate because a lot of collegiate athletics is almost
28 professional.

29 (Laughter.)

30 CHAIR JAMES: Commissioner Lanni?

1 COMMISSIONER LANNI: I think if we had reviewed the
2 acts of Congress, there is a -- Congress determined some years
3 ago that sports wagering is limited to three states -- the State
4 of Nevada, the State of Oregon, and the State of Delaware --
5 because they had preexisting laws in place. All other states are
6 denied the right to have this. Why we are suggesting that
7 Congress continue to do what they've already done I find inane at
8 best.

9 COMMISSIONER WILHELM: Well, but isn't the thrust of
10 this recommendation to ban it in the three states where it's
11 permitted?

12 COMMISSIONER BIBLE: That would be the effect, yes.

13 COMMISSIONER DOBSON: It says banned altogether.

14 COMMISSIONER WILHELM: Which makes no sense to me at
15 all. I mean, Congress has extensively debated this issue in
16 recent years, at great length, and has settled on not expanding
17 it any further. New Jersey -- some people in New Jersey want it
18 to be permitted, to engage in sports gambling, and Congress
19 concluded that it would not be expanded, nor would it be
20 contracted. They, in essence, grandfathered the jurisdictions
21 that already have the right.

22 And since Congress has debated that exhaustively in
23 recent years on more than one occasion, my view is that, first of
24 all, this recommendation is a complete waste of time because it's
25 not going anywhere. But more importantly, the burden of all of
26 the testimony we heard is that the problem in sports gambling is
27 the illegal sports gambling. It isn't the very limited legal
28 stuff. So to me, this is both irrelevant and also off target.

29 COMMISSIONER DOBSON: Madam Chair, it is not my
30 recollection that the presentations made were exclusive of the

1 State of Nevada and others in regard to the -- let me start over.
2 I believe it was Mr. Schomb who came here from the NCAA and
3 talked at some length about the threat to amateur athletics, and
4 especially collegiate sports, from gambling. Made this big case,
5 and then didn't apply any of that to Nevada and the other two
6 states.

7 And even the people who came here from Nevada, as I
8 recall, talked about the prohibition within Nevada of gambling on
9 amateur athletics within that state. So it's pretty well
10 acknowledged, both inside those states and outside, that there is
11 a danger here to amateur athletics. And why it should apply only
12 to those states that don't have it now I don't understand.

13 COMMISSIONER BIBLE: Right. And I indicated, at least
14 when I talked about 3.53, that I felt that regardless of what we
15 did in terms of sports wagering, we're going to have a minimal
16 impact at best; 99-9/10 of the activity that goes on today is
17 illegal. It's not legal sports wagering.

18 I think if we're deluding ourselves into thinking we're
19 going to affect that, I think we're just not facing up to
20 reality, and I would not support it. If anything, I'd indicate,
21 as I did in 3.53, that it probably should be expanded, and this
22 is the one area where it should be legalized, just legalize the
23 activity. But that's not going to prevail.

24 CHAIR JAMES: Commissioner Leone?

25 COMMISSIONER LEONE: You know, I think that the
26 reasoning on this in Nevada is on its head. I think Nevada
27 should be permitted to have gambling on collegiate sports events
28 if they take place in Nevada and nowhere else.

29 COMMISSIONER BIBLE: And we do it just the reverse.

1 COMMISSIONER LEONE: And I don't see how it can be
2 justified. I mean, I think if you can -- if you ban gambling on
3 the things that take place and the events that take place on your
4 own colleges, because you're concerned about the potential
5 negative effect, or otherwise just doing it capriciously, then I
6 don't see how it can be justified to permit gambling on
7 activities in other states.

8 And the fact that the Congress has exhaustively debated
9 it, or that Nevada is not going to change its rules, doesn't
10 change the fact that I want to go on the record as thinking we
11 ought to ban gambling on collegiate and other amateur events in
12 the United States.

13 You know, that doesn't make much sense in some -- I
14 don't want to render the report frivolous. But I don't think
15 this is a frivolous recommendation, in that I think it's based on
16 some real issues.

17 CHAIR JAMES: Commissioner Lanni?

18 COMMISSIONER LANNI: One of the -- and I followed a lot
19 of that debate in Congress on that particular issue. One of the
20 reasons that the people who supported a restriction moved as
21 quickly as they did, they were fearful that the number of states
22 that now have legalized casino gambling would request the same
23 rights that Nevada has.

24 They gave New Jersey a one-year option to bring itself
25 together for entirely separate political reasons within the two
26 parties. That didn't come before the Assembly and the Senate. I
27 think if you -- for those of you who are opposed to this and
28 don't want to see it expanded, by opening this as an issue I
29 think you'll see a hue and cry from the states like Mississippi,

1 Louisiana, New Jersey, and others, saying, "Wait a minute. We
2 want to revisit this, and we should have the right to do it."

3 COMMISSIONER BIBLE: I think you're right, at least in
4 --

5 COMMISSIONER LANNI: I think you're --

6 COMMISSIONER BIBLE: Mississippi has gone on record
7 indicating they want --

8 COMMISSIONER LANNI: I think you're making a mistake by
9 doing this. I think if you leave well enough alone, it's -- and
10 this is not -- we operate in different states, so it's not a
11 self-serving comment. I think you'd be better off leaving it
12 where it is.

13 Delaware has it on the books but has done nothing
14 affirmatively to try to bring it about. Oregon is limited to the
15 fact that they have these lottery cards that are tied to sports
16 engagements, which include I think amateur and professional. And
17 otherwise it's in Nevada. I think you'd be making a mistake.

18 CHAIR JAMES: Commissioner Moore?

19 COMMISSIONER MOORE: For information, now in Nevada,
20 you don't -- if you're an MGM Grand, you don't have betting on
21 sports events, right?

22 COMMISSIONER LANNI: Yes, we do. We have sports book,
23 and we have a race book. It's quite legal, and I think most of
24 the institutions in Nevada have --

25 COMMISSIONER MOORE: Do most of them have it? I
26 thought it was --

27 COMMISSIONER BIBLE: Yes. Most of the larger casinos
28 have race and sports books.

29 CHAIR JAMES: Commissioner Dobson?

1 COMMISSIONER DOBSON: Madam Chair, I'd like to ask
2 Commissioner Lanni, do you agree that sports wagering in Nevada
3 should be harmful to the universities -- to the athletic contests
4 in Nevada? And if so, why would that not apply anywhere else?

5 COMMISSIONER LANNI: Well, it's technically not -- Bill
6 can correct me -- I don't think it's technically -- you could
7 bring two amateur teams into Nevada that are non -- I think it
8 was just UNLV and UNR, isn't it? I don't think it's limited --
9 if you brought in USC and UCLA to play a football game, would you
10 be prohibited from gambling on that?

11 COMMISSIONER BIBLE: No. I think you could wager that
12 game. It's for an institution that's located within Nevada.

13 COMMISSIONER LANNI: Yeah. I think it's just really
14 for institutions located within Nevada, wherever they play.

15 COMMISSIONER DOBSON: The question is the same.

16 COMMISSIONER LANNI: I'm sorry. Why don't you ask it
17 again. I just wanted to --

18 COMMISSIONER DOBSON: Okay. The question is: if that
19 -- even in those two universities, the case of those two
20 universities, if that's damaging or potentially damaging to the
21 integrity of amateur athletics there, why not elsewhere? Why not
22 in other states? Why not in states that are affected by that in
23 Oklahoma or Texas or Pennsylvania?

24 COMMISSIONER LANNI: I didn't promulgate the
25 regulation. I think you'd have to ask Mr. Bible as to the cause
26 of the factor for that.

27 COMMISSIONER BIBLE: And that was never in the
28 regulation and was debated. My understanding is they wanted to
29 avoid any kind of a hint of impropriety involving a Nevada-based
30 team.

1 COMMISSIONER LANNI: You know, there are restrictions
2 in Nevada. For example, in London and throughout the U.K., you
3 can wager on presidential elections. The election in Israel
4 today, you could have wagered on that if you wanted to. That is
5 not allowed under regulation or statute. I'm not sure which in
6 the State of Nevada. You can't bet on the Academy Awards and
7 things of that nature.

8 COMMISSIONER DOBSON: Well, I'm just concerned about
9 the influence on the kids that are in college. They have
10 enormous amounts of money, incredibly important futures at stake,
11 and they can obviously, by compromising just a little bit here
12 and there, can undermine the integrity of the game and the young
13 people themselves.

14 COMMISSIONER BIBLE: And interestingly enough, if you
15 look at all of the recent scandals in sports, they did not
16 involve legalized wagering. It was all illegal wagering. I
17 think all you do is you just drag the activity underground.

18 CHAIR JAMES: My sense is that this is a debate that
19 could go on for a fairly lengthy period of time. However, I
20 wonder if we're ready to call for the vote.

21 COMMISSIONER DOBSON: Let's call for the question.

22 CHAIR JAMES: All in favor?

23 (Ayes.)

24 Opposed?

25 (Nays.)

26 COMMISSIONER WILHELM: Abstain.

27 CHAIR JAMES: Abstain. I think we're going to need to
28 do a roll call on that, just to be clear.

29 Commissioner Bible?

30 COMMISSIONER BIBLE: No.

1 CHAIR JAMES: Commissioner Dobson?

2 COMMISSIONER DOBSON: Yes.

3 CHAIR JAMES: Commissioner Lanni?

4 COMMISSIONER LANNI: No.

5 CHAIR JAMES: Commissioner Leone?

6 COMMISSIONER LEONE: Yes.

7 CHAIR JAMES: Commissioner Loescher?

8 COMMISSIONER LOESCHER: No.

9 CHAIR JAMES: Commissioner McCarthy?

10 COMMISSIONER McCARTHY: Yes.

11 CHAIR JAMES: Commissioner Moore?

12 COMMISSIONER MOORE: Yes.

13 CHAIR JAMES: Commissioner Wilhelm?

14 COMMISSIONER WILHELM: Abstain.

15 CHAIR JAMES: Abstain. And Commissioner James votes
16 yes. So let's see what that does. Five yes. The motion
17 carries. Five yes, three no, and one abstention.

18 All right. 54, the Commission recommends that state
19 and federal laws prohibiting sports wagering focus the weight of
20 the law on bookies and others who set up sports wagering
21 businesses, not on people who simply wager among themselves. I
22 don't know.

23 COMMISSIONER BIBLE: That's J.S., that must have been
24 Mr. Shosky.

25 CHAIR JAMES: Do I hear a motion? Hearing none, let's
26 move over to Section 4, Gambling and Addiction. Much of what
27 we're about to go through has been preempted. All will show up
28 in the research section and some of the things that we passed
29 this morning.

1 COMMISSIONER WILHELM: If that's the case, would it
2 make sense to do the research section before we do this section?

3 CHAIR JAMES: I'm not so sure.

4 COMMISSIONER WILHELM: Okay. Just asking.

5 CHAIR JAMES: It's not quite that many.