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UNITED STATES OF AMERICA

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NATIONAL GAMBLING IMPACT STUDY COMMISSION

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COMMISSION MEETING

+ + + + +

WEDNESDAY

APRIL 28, 1999

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The Commission met in Room 383, The Hall of States,  
444 North Capitol Street, N.W., Washington, D.C., 20001, at 8:30  
a.m., Kay C. James, Chair, presiding.

PRESENT:

- KAY C. JAMES Chair
- WILLIAM A. BIBLE Commissioner
- JAMES C. DOBSON, PH.D. Commissioner
- RICHARD C. LEONE, PH.D. Commissioner
- J. TERRENCE LANNI Commissioner
- ROBERT W. LOESCHER Commissioner
- LEO T. MCCARTHY Commissioner
- PAUL HAROLD MOORE, M.D. Commissioner
- JOHN W. WILHELM Commissioner
- TIMOTHY A. KELLY, PH.D. Executive Director
- GEORGE T. TERWILLIGER, III General Counsel
- JOHN E. SHOSKY, PH.D. Senior Report Writer

ALSO PRESENT:

- Mike Clancy, Attorney
- Ron Reno

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1 CHAIR JAMES: Good morning. I'd like to call our  
2 meeting to order.

3 We have several loose ends and some unfinished business  
4 to take care of. Before we get started today, I will remind  
5 Commissioners that I asked you to bring your calendars, that you  
6 come prepared today to talk about specific recommendations.

7 And I think that all of us spent a great deal of time,  
8 I know I did, yesterday evening and this morning reading the  
9 various documents that have come before us. We also have some  
10 old business from our last meeting that we need to talk about,  
11 and I thought we would get to some of that this morning so that  
12 our general counsel can get back to his day.

13 So I thought we would start with that, then move to  
14 some of the issues to wrap up from yesterday, and then move into  
15 today's agenda.

16 There were two items that -- out of our last meeting we  
17 referred to the general counsel. One was the contract with ACIR  
18 and what -- because of, I think, the Commission expressed their  
19 displeasure at some of the work that was coming from them and  
20 their inability to deliver what we asked for and to do it on  
21 time.

22 And I asked that we look at what are our -- at this  
23 point, what are our options in dealing with that. And I wanted  
24 to ask our general counsel if he would speak to that issue, as  
25 well as to bring us up to date in terms of where we are on the  
26 subpoena issue and what our options are as a Commission.

27 GENERAL COUNSEL TERWILLIGER: Thank you. Nice to be  
28 with the whole Commission again.

29 In terms of the ACIR issue, there were two reports due  
30 from ACIR to the Commission. And the commissioners, no doubt,

1 recall the enabling statute for the Commission as passed by the  
2 Congress required contracting with ACIR, and the Commission, of  
3 course, complied with that statutory mandate.

4           The first report, a comparison of law report concerning  
5 gambling laws, has been described by the Commission staff as  
6 marginally adequate and was delivered late.

7           The second, which was a survey of gambling laws,  
8 federal, state and local, throughout the United States, has been  
9 determined by the Commission staff as unacceptable under the  
10 terms of the contract standards.

11           And in essence, ACIR has been very candid in meetings  
12 with the Commission staff on the latter especially. Obviously  
13 the fact that the reports were late is unassailable. Second,  
14 they've admitted the inadequacy on the survey part.

15           At this point, it seems to us that the Commission has  
16 three options. The Commission has the right, under the contract  
17 that was signed, to terminate the contract if it is breached.  
18 And the Commission could certainly take the position that the  
19 contract has been breached for the reasons that I've described  
20 and others.

21           Second, the Commission can try to reach a negotiated  
22 closure of this matter with ACIR. Currently ACIR has been paid  
23 about \$210,000 based on deliverables. In other words, graduated  
24 payments. There is a \$65,000 balance on the contract amount  
25 outstanding.

26           There is one additional deliverable due from ACIR which  
27 is basically to be in the form of a CD-ROM and it's supposed to  
28 be delivered in mid May.

29           My partner, Mike Clancy, who is a Government contracts  
30 lawyer and has worked directly on this issue, is here with us

1 today and can join me in answering specific questions that you  
2 might have concerning the legal situation here.

3 But, in essence, what we have is a contractor who has  
4 not delivered, from our perspective at least, that which was  
5 required under the contract. We, of course, have looked at this  
6 from a legal perspective.

7 But from a practical perspective, it's obvious that  
8 we're running up against the statutory deadline to report the  
9 Commission's final work product, and that has to be taken into  
10 account in deciding how to deal with this.

11 And in fact, and I'm sure Dr. Kelly can expound on this  
12 in greater detail than I can, but the Commission has basically,  
13 through its own staff, tried to back stop the ACIR effort and  
14 fill in some of the data that is needed to aid in the  
15 Commission's overall work.

16 CHAIR JAMES: With that, I had asked the attorneys to  
17 prepare a letter to go to ACIR which basically summarizes that.  
18 My recommendation would be that, at this point, we -- the only  
19 leverage we have, of course, is the remaining payment that we  
20 have, and that we hold that until we get that deliverable, of  
21 course, on May 15.

22 We don't know how usable it will be, how accurate it  
23 will be; but I did want to give you an update in terms of where  
24 we are on that contract. We will get copies of this particular  
25 letter and get it circulated among the commissioners.

26 Any guidance, any -- what's your pleasure?

27 COMMISSIONER BIBLE: Did the contract have any penalty  
28 provisions for non-performance or for inadequate performance?

29 GENERAL COUNSEL TERWILLIGER: Mike, why don't you come  
30 up. You're more familiar with the contract.

1 Madame Chair and Commissioners, this is my partner,  
2 Mike Clancy, who is much more intimately familiar with the terms  
3 of the contract than I am.

4 CHAIR JAMES: Mike, if you want to have a seat right  
5 here, we can hear you.

6 GENERAL COUNSEL TERWILLIGER: The question was, Mike,  
7 did the contract contain any penalty provision, self-executing or  
8 otherwise?

9 MR. CLANCY: No, just the termination provision.

10 CHAIR JAMES: I'm sorry, you're going to have to  
11 swallow that microphone.

12 MR. CLANCY: There's no penalty provision. There's  
13 just the termination clause which gives the Commission the right  
14 to terminate for breach of contract.

15 COMMISSIONER BIBLE: Well, Mike, my sense would be to  
16 pay for what you got and don't pay for what you don't have.

17 CHAIR JAMES: Any other comments?

18 COMMISSIONER McCARTHY: Yes, I wanted to say the air  
19 conditioning is working very well this morning.

20 CHAIR JAMES: It is indeed. Let's see if we can get it  
21 to work a little less well.

22 COMMISSIONER McCARTHY: I had just one ameliorating  
23 comment that I wanted to make as to the first deliverable, the  
24 analysis. Part of the lateness was due to a change in the design  
25 of the plan which the research subcommittee sought.

26 So whatever liability they bear for that first section,  
27 we share.

28 GENERAL COUNSEL TERWILLIGER: Go ahead, Mike.

1 MR. CLANCY: I just want to comment on that. And  
2 working with Dr. Kelly on this, we factored that into the  
3 analysis, --

4 COMMISSIONER McCARTHY: Okay.

5 MR. CLANCY: -- and we gave ACIR a two month extension  
6 --

7 COMMISSIONER McCARTHY: Okay.

8 MR. CLANCY: -- to get the report done, in fact, and  
9 they -- even with the two month extension, what they ultimately  
10 turned in was a draft summary of survey data which didn't come  
11 close to the specific requirements of the report.

12 So I think to the extent they had any issue with  
13 needing more time, the Commission was very generous to give them  
14 that extra time.

15 CHAIR JAMES: Well, I will circulate the letter for  
16 your comments and proceed as we've --

17 COMMISSIONER McCARTHY: Well, if we have an extra  
18 \$60,000, there's another study that the research --

19 (Laughter.)

20 CHAIR JAMES: One more questionnaire. We expect you to  
21 announce one at the press conference. I'll be disappointed if  
22 you don't.

23 MR. CLANCY: Thank you.

24 CHAIR JAMES: Thank you, Mike.

25 COMMISSIONER BIBLE: I think you should submit a  
26 questionnaire to the commissioners.

27 CHAIR JAMES: We want to turn now to the question that  
28 was raised at the end of our last meeting about NIGC and our  
29 ability to get information and get data and the question as to  
30 whether or not this Commission should proceed with a subpoena.

1           And I wanted to ask George if he would update us on  
2 that.

3           GENERAL COUNSEL TERWILLIGER: Certainly.

4           There are basically three options that we've identified  
5 to deal with the question of obtaining certain data from the  
6 National Indian Gaming Commission.

7           The first, which I guess is always an option in any  
8 situation, is to do nothing, with the notation that obviously the  
9 Commission's report could, if the Commission so concluded,  
10 contain factual information concerning the history of this  
11 particular effort to obtain this information and why it was  
12 needed.

13           The second would be to go through the process that is  
14 described in our statute and rules and issue a subpoena to the  
15 National Indian Gaming Commission for this information. I will  
16 come back to that one in a moment.

17           The third is to continue the attempts that have been  
18 made thus far at a negotiated resolution. And let me inform the  
19 Commission, as I have told the Chair last Friday, as late as last  
20 Friday, I had a conversation with Philip Hogan, who is the  
21 Executive Director of the National Indian Gaming Commission,  
22 about this particular issue.

23           I would note parenthetically that I've known Mr. Hogan  
24 on a personal basis for a long time. We both served as United  
25 States attorneys together in the Reagan and Bush Administrations.

26           What I explained to Mr. Hogan -- and, again, as the  
27 general background on this issue, we look at the National Indian  
28 Gaming Commission itself as a federal entity. Our statute  
29 provides that federal agencies are supposed to provide us with  
30 information upon request.

1           And they, of course, have taken the position, to put it  
2 in summary form, that they are under legal restrictions as to  
3 certain information that they hold in confidence from their  
4 constituent, if not members, interested parties, tribes, that  
5 they cannot, by law, share with us if that is what has set up  
6 this -- at least the legal issue involved here.

7           We have told the Commission, in writing and past  
8 correspondence, which I believe has been available to all the  
9 Commissioners -- and I again reiterated this point to Mr. Hogan  
10 on Friday both orally and then I sent him a follow up letter on  
11 Friday actually to his home where I explained that our statute  
12 provides that any non-public information we receive may be  
13 maintained and must be maintained in a non-public status by us.

14           So we can't convert non-public information received  
15 from a federal agency into public information. And thus, the  
16 confidentiality restriction that the Indian Gaming Commission  
17 states applies to this data.

18           Our position, as a legal matter, would be that it would  
19 be maintained.

20           I had hoped to talk again with Mr. Hogan prior to this  
21 meeting, but that did not talk place. I've had no reply, at  
22 least as of yesterday, to that letter. And that's where the  
23 negotiation part of it stands, I guess.

24           On the subpoena, as you know, we are required to give  
25 notice to the attorney general of the Commission's intent to  
26 issue a subpoena ten days -- I believe it's ten days prior to the  
27 issuance.

28           We have prepared and tendered to the Commission staff a  
29 week or so ago that correspondence. And I've actually given two  
30 letters to the staff. One is a simple notice provision.

1           The other one contains both notice and a request for  
2 the attorney general to have the Justice Department intercede on  
3 our behalf with the National Indian Gaming Commission since it is  
4 our view that it is a federal agency and perhaps, through powers  
5 of persuasion and some legal analysis, the Justice Department  
6 might be able to assist us in avoiding the necessity of issuing  
7 and/or moving to enforce the subpoena.

8           Which brings me to the last point on this issue, and  
9 that is assuming that the subpoena was not voluntarily complied  
10 with if we issued it and it was received and they did not -- that  
11 is, the Indian Gaming Commission did not provide the information,  
12 what happens then?

13           Of course, predicting the nature, extent and cost of  
14 litigation, as many of you no doubt realize from your own  
15 experiences, is a very difficult undertaking.

16           But suffice it to say that even under the most  
17 ambitious of scheduling matters with the District Court, if we  
18 were either to move to affirmatively enforce the subpoena, which  
19 we have the right to do, or the Indian Gaming Commission were to  
20 move to quash the subpoena, I doubt very much that that  
21 litigation could be completed in such time as to make the data  
22 useful to the Commission or even resolve before the Commission's  
23 final report is due in 60 days thereafter that the Commission  
24 expires.

25           We would, of course, do everything we could with the  
26 Court to expedite those proceedings should they become necessary.  
27 But as a practical matter, I'm not sure that we could get there.

28           That, of course, is not a veiled suggestion not to  
29 issue the subpoena, because I think we are entitled to presume  
30 that if a legally constituted body with clear subpoena power goes

1 through the proper steps to issue the subpoena, we presume that  
2 people would obey the law and comply with the subpoena.

3 But recognize that if there is non-compliance, it may  
4 be difficult and rather expensive to go through the proceedings  
5 to enforce the subpoena or defend it, depending on how the issue  
6 arises.

7 CHAIR JAMES: With that, I think we have three clear  
8 options before the Commission and the Chair would like to  
9 entertain some discussion and determine the will of the  
10 Commission.

11 COMMISSIONER LOESCHER: Madame Chairman.

12 CHAIR JAMES: Certainly, Commissioner Loescher.

13 COMMISSIONER LOESCHER: Yeah, I had a chance to meet  
14 with the chairman of the Indian Gaming Commission, as I know you  
15 did, and they have done their best to provide whatever they can  
16 to the best of their ability and have forwarded to the Commission  
17 and members aggregate information.

18 And you know, for what it is, I appreciated the  
19 information. It was well formed and well displayed and clear. I  
20 am not quite sure that pursuing this matter would get us much  
21 more.

22 We would satisfy ourselves that we exercised and used  
23 our authority, but I'm not quite sure that we would get much  
24 more. And also, I am concerned about the timeliness and the  
25 expense that it would take.

26 I know that the Native American community will defend  
27 the fort from the cowboys as long as they can and probably  
28 intervene in that action as well. So, Madame Chair, I would hope  
29 that the Commission would forebear and go on.

30 CHAIR JAMES: Other points of view, discussion?

1 COMMISSIONER McCARTHY: Point of information, please.

2 George, which letter is it? We have sent several  
3 letters to the NIGC. Which particular letter is it you were  
4 referring to?

5 GENERAL COUNSEL TERWILLIGER: I may have not been  
6 clear, Commissioner McCarthy. The letter that I -- the last  
7 letter I referred to was a letter I sent last Friday.

8 COMMISSIONER McCARTHY: No, I don't mean your letters.  
9 I'm sorry, I meant the original request from the Commission for  
10 information.

11 GENERAL COUNSEL TERWILLIGER: I don't have the date in  
12 front of me.

13 COMMISSIONER McCARTHY: Because I think we've sent a  
14 couple of letters.

15 GENERAL COUNSEL TERWILLIGER: We have.

16 COMMISSIONER McCARTHY: Including a last one, which  
17 really, I must say, had in it what I thought were some very easy  
18 to answer questions. It had absolutely nothing to do with any  
19 proprietary information.

20 CHAIR JAMES: Right. And I would ask the Executive  
21 Director if you would go and brief the Commission on response  
22 that we've received.

23 COMMISSIONER McCARTHY: That's what I'm talking about,  
24 the one that has the core elements of the regulatory scheme and  
25 asked them to respond to that, as well as some --

26 CHAIR JAMES: Tim, use the microphone.

27 EXECUTIVE DIRECTOR KELLY: Commissioner McCarthy, I  
28 don't have copies of the letter with me. We could get staff to  
29 bring that down ASAP.

1 But if I remember right, the letter you're referring to  
2 did ask for specific data elements as well because, you remember,  
3 after our last meeting, the decision was to request of the NIGC  
4 specific elements from those audits as opposed to the audits --

5 COMMISSIONER McCARTHY: Well, what about if it went  
6 directly to audit material? But then there was a second letter  
7 that had two sections in it. One was listing a series of core  
8 elements that were part of a regulatory scheme, a lot of it drawn  
9 from the Belletire presentation.

10 And the second was asking for some numbers in the  
11 aggregate which were added, but they should not have evoked the  
12 kind of controversy that the original audit request evoked. And  
13 I'm mystified as to why the second letter wasn't -- it would take  
14 some work.

15 It would take, you know, some staff time to do it. But  
16 it's not the kind of -- what has been characterized super  
17 sensitive matter, as I understood it.

18 Do you know the distinction I'm making, George?

19 GENERAL COUNSEL TERWILLIGER: I do.

20 CHAIR JAMES: Certainly.

21 I think it would be helpful to all of us if, Tim, you  
22 sort of walked us through the various requests and where we are  
23 on that right now.

24 EXECUTIVE DIRECTOR KELLY: If I could, just for the  
25 sake of clarity, go back to last fall just briefly. Last fall  
26 was when we sent our first request in for audit information to  
27 NIGC and were told by them that they couldn't share that  
28 information.

29 At our retreat meeting, I believe, we discussed the  
30 issue and decided that the best thing to do would be to send a

1 request for specific data elements out of the audit. We then did  
2 that. We sent a letter to NIGC requesting specific data elements  
3 out of that audit, which included revenues for individual tribal  
4 casinos, for instance.

5 What we got in response was the aggregate data that  
6 Commissioner Loescher was referring to. So, in other words, what  
7 we got was well, on average, we're getting this type of level of  
8 revenue as opposed to individual specific revenue data.

9 We could perhaps get staff to bring down copies of  
10 these letters if that would help.

11 CHAIR JAMES: They're getting it.

12 Given that, what would you like to do?

13 Commissioner Dobson, I know you have some strong  
14 feelings about this. Commissioner Moore.

15 COMMISSIONER DOBSON: Madame Chair, I've already  
16 expressed them. I don't think I need to express them again. I  
17 think we've been stiff armed. It sounds to me like that there's  
18 not a lot that we can do about it. We're going to be out of  
19 business June the 16th and --

20 CHAIR JAMES: 18th.

21 COMMISSIONER DOBSON: 18th.

22 CHAIR JAMES: Every day helps.

23 (Laughter.)

24 COMMISSIONER DOBSON: What can happen after that? We  
25 don't even exist. So I don't know what to do. I'm very  
26 frustrated by it and I feel it's wrong.

27 COMMISSIONER BIBLE: And I would agree with Jim and I  
28 think we ought to make notations in our report that we requested  
29 the information and it was not provided. And where we come to  
30 areas in the report document that -- where it would have been

1 helpful to have had that information, I think we ought to so  
2 indicate.

3 CHAIR JAMES: Any other discussion on this?

4 My recommendation would be that we do a combination of  
5 two of your options, George, which is to continue to press in and  
6 try to negotiate and get the information; but, at the same time,  
7 as we're preparing the document, do exactly what you suggest,  
8 Bill, which is, at the appropriate places where that information  
9 would have been helpful, note that it was not available and make  
10 a recommendation perhaps that Congress seek other remedies to  
11 provide this information for analysis so that policy makers can  
12 have the benefit of that for their decision making processes.

13 COMMISSIONER McCARTHY: May I ask a question? If an  
14 appropriate committee of the House or the Senate asks for this  
15 information, would there be any doubt that they would receive it?

16 GENERAL COUNSEL TERWILLIGER: Well, my crystal ball's  
17 not that good. But certainly one of the options for Congress,  
18 should they choose to act, would be to issue a subpoena for this  
19 same data.

20 COMMISSIONER McCARTHY: Without a subpoena, is there  
21 any doubt -- would the NIGC give a committee of either the House  
22 or the Senate the same answer that this federal agency has been  
23 given?

24 GENERAL COUNSEL TERWILLIGER: I can't predict that.  
25 Leo, I can't predict that.

26 COMMISSIONER McCARTHY: Okay.

27 GENERAL COUNSEL TERWILLIGER: That's hard to say. One  
28 would think not, but they very well might. But as you know, the  
29 power of Congress in its oversight role of federal operations to

1 gather information from federal entities is rather broad and  
2 plenary, really.

3 And thus, one would expect that Congress could, in  
4 fact, get this information.

5 CHAIR JAMES: Dr. Moore.

6 COMMISSIONER MOORE: I believe that this only fortifies  
7 us in our recommendations in our report to the President and the  
8 legislatures and all of that, and the governors. And I think  
9 it's sort of sad when a commission appointed by Congress and  
10 approved by the President cannot get this information from  
11 another Government entity, as described by the legal counsel.

12 And I believe that whoever made this rule, and if it  
13 comes out of the Indian Regulatory Gaming Act, I believe that  
14 there should be strong recommendations, and there are strong  
15 recommendations, that there should be full disclosure of all of  
16 this.

17 And I believe this will help us in letting Congress see  
18 that there are some changes that need to be made and must be  
19 made. But I say that we go on with our business but still try to  
20 work out the second option -- no, the third option probably.

21 CHAIR JAMES: Well, I would ask you, George, if you  
22 would continue your conversations with Phil. We will continue  
23 our drafting process and use the strongest possible language  
24 within the report to express our displeasure with our inability  
25 to get the data so that we could do a comprehensive report.

26 Any other discussion?

27 Thank you, Ted.

28 Thank you, George.

29 GENERAL COUNSEL TERWILLIGER: You're welcome.

1 COMMISSIONER LOESCHER: Madame Chair, I'd like to say  
2 thank you to George for his work with the Commission. Hope we  
3 see him before the term is out. And like to compliment him on  
4 his work on our FACA issue. And I do recognize the last page of  
5 the GAO report he did valiantly try to ask them to change their  
6 view of life and defend the President of the United States and  
7 his options for the future.

8 (Laughter.)

9 So thank you very much for your work.

10 GENERAL COUNSEL TERWILLIGER: Well, I appreciate you  
11 saying so. Thank you. I hope I will be with the Commission  
12 again, but this has been a very -- my goodness.

13 (Laughter.)

14 I guarantee I did not arrange that. This has been a  
15 very interesting assignment with a variety of legal issues. I,  
16 if I may, Madame Chair, --

17 CHAIR JAMES: Absolutely.

18 GENERAL COUNSEL TERWILLIGER: -- would very much like  
19 to compliment the Chair and each and every member of the  
20 Commission for not only how I have been dealt with, which is  
21 rather immaterial, but for how you have dealt with each other and  
22 with some very volatile issues here.

23 I think it is truly amazing that this body has remained  
24 as cohesive, as united and worked by consensus to the degree that  
25 it has on this particular issue. Of course --

26 CHAIR JAMES: But the day's not over until --

27 GENERAL COUNSEL TERWILLIGER: I say that without --

28 COMMISSIONER McCARTHY: Yeah, stay tuned, George.

29 (Laughter.)

1 GENERAL COUNSEL TERWILLIGER: But really, the work has  
2 been very important. And the dedication of each and every  
3 individual Commissioner has truly been exemplary.

4 CHAIR JAMES: Thank you. And we very much appreciate  
5 your guidance and your help.

6 And on more than one occasion, I've told George that my  
7 comfort level has been increased greatly by knowing that we had  
8 the full weight of him and his firm and his expertise and his  
9 knowledge of Washington and of the law.

10 GENERAL COUNSEL TERWILLIGER: And according to the GAO,  
11 I was even chief.

12 (Laughter.)

13 COMMISSIONER WILHELM: Secret, but chief.

14 CHAIR JAMES: Thank you, George.

15 GENERAL COUNSEL TERWILLIGER: Thank you.

16 CHAIR JAMES: And hopefully you'll be at our final  
17 meeting and we'll have some other comments then.

18 Commissioner Kelly, you can join us here -- Director.

19 With that, we have a few loose ends from yesterday.

20 Commissioner Dobson, I want to turn to you. You had a  
21 few issues you wanted to bring back before the Commission that  
22 didn't come to resolution. And let me ask you to do a couple of  
23 things that I think will help our day to move more smoothly.

24 All of us have stacks and stacks of paper in front of  
25 us. And so when you are referring to a document or talking about  
26 something, if you could say specifically what document, what  
27 page, and, when possible, what line item.

28 And I might as well make this comment as well before we  
29 move into our discussion of the new pieces as well. I'm going to  
30 ask that we keep our discussion today very, very narrowly

1 focused. And we will have ample opportunity to do many of the  
2 line item edits.

3 The language will change as we go through the process.  
4 What I'm most interested in getting through today are the policy  
5 issues and specific recommendations. And I think that's the best  
6 use of our time here.

7 We'll sort of take a look midpoint through the day,  
8 maybe at the end of the day, to see where we are and what  
9 additional time we may need together or by phone in order to get  
10 our work done.

11 With that, I'm going to turn to you, Commissioner  
12 Dobson, for the issues that you had remaining from yesterday.

13 COMMISSIONER DOBSON: Thank you, Madame Chair.

14 Rather than being my issues, some of them are  
15 assignments or things that we agreed upon. Let's start with the  
16 pathological report at page four.

17 COMMISSIONER WILHELM: Which document is this?

18 COMMISSIONER DOBSON: This is the pathology -- let's  
19 see.

20 EXECUTIVE DIRECTOR KELLY: It's the one that has  
21 additional draft language on the front.

22 CHAIR JAMES: Looks like this.

23 COMMISSIONER DOBSON: Yeah, page four under scope.

24 CHAIR JAMES: Everybody got it? Six, I guess. I've  
25 got paper in front of me, too.

26 CHAIR JAMES: And I want to thank you and your staff,  
27 Dr. Dobson, for taking the time last night, I know, to work on  
28 some of this language and bring it back before us, and it is  
29 appreciated.

1 COMMISSIONER DOBSON: Thank you. And again, I think we  
2 can move through this very quickly.

3 There was, as you recall, a very intense or emotional  
4 discussion at the end of the day with reference to NORC and a  
5 particular portion of their data. And that discussion was  
6 interpreted as an attack on NORC, and I don't think that was  
7 accurate or fair and I'll explain why.

8 If you look at the third paragraph on page four -- and  
9 pardon me for reading to you. "The council notes that many  
10 families of pathological gamblers suffer from a variety of  
11 financial, physical and emotional problems."

12 "Those problems, discussed elsewhere in this report,  
13 include divorce, domestic violence, child abuse and neglect, in  
14 addition to severe financial hardships brought about by excessive  
15 gambling."

16 "Children of compulsive gamblers are more  
17 characteristic" -- I'm sorry, I'm sorry. I'm sorry, I've got so  
18 much paper in front of me. Go to page 11. Go to page 11. Go to  
19 page 11, if you will.

20 CHAIR JAMES: Okay.

21 COMMISSIONER DOBSON: I opened to the wrong page.  
22 Okay, it was on page 11 that we had the disagreement. I'm sorry,  
23 I referenced the wrong place. Let me read that paragraph at the  
24 top.

25 CHAIR JAMES: Page 12, line --

26 COMMISSIONER DOBSON: One. And I don't -- I don't want  
27 to start with the beginning of that paragraph. Let's just start  
28 at the top of page 11.

29 "Characteristics of home is lying to conceal the extent  
30 of their gambling. Might lie to someone collecting data. Those

1 who have lost their savings and homes might be reachable by  
2 phone. Heavy gamblers may not be in their homes to answer the  
3 phone."

4 "People in treatment for gambling addiction might not  
5 be in their homes or in their casinos. Those in prison for  
6 gambling related crimes would not be accounted for."

7 What we were dealing with in this section, obviously,  
8 was the under representation of losses by those who have  
9 pathological and problem difficulties.

10 Now, I had suggested yesterday that the NORC data under  
11 represented the losses by those who were -- had problems with  
12 pathological gambling, and some of you saw that again as an  
13 attack on NORC.

14 Let me read to you NORC's own comments, which I wanted  
15 to put in here, and then you tell me whether or not that's  
16 appropriate.

17 Number one, "Virtually none of the survey data on the  
18 reported wins and losses appears to be accurate at face value."  
19 That's NORC's own statement about it's own data at this point.  
20 That's NORC page 31.

21 Number two, "Instead of a careful, computer-like  
22 accounting for gaming dollars, individuals tend to understate  
23 their net losses and exaggerate their net wins." That's also  
24 page 31.

25 Number three, on page 31 also, they referred to  
26 "numerous instances of non-credible reporting."

27 Number four, the balance of past year casino wins and  
28 losses shows patrons ended up with a \$5 billion dollars or a \$3  
29 billion dollar windfall instead of leaving more than \$20 billion  
30 at the casinos." That's page 33.

1           Number four, "Lack of realism in the overall estimates  
2 of monetary wins and losses." And number five, "Gamblers seem  
3 accustomed to a fairly high level of wishful thinking about the  
4 economics of the games they play."

5           That's page 34. These are NORC's own comments about  
6 their own data. To report that in our document is not an attack  
7 on NORC; it is simply reporting their own information.  
8 Therefore, this is the paragraph that we want you to consider.

9           Data within the NORC survey give indications that  
10 gamblers tend to understate their negative experiences with  
11 gambling. For instance, survey respondents greatly exaggerated  
12 their wins and under reported their losses.

13           Further, respondents were five times more likely to  
14 report that their spouse's gamblings contributed to a prior  
15 divorce than to admit that their own gambling was a factor.

16           That is not an attack on NORC. That is a statement  
17 that comes out of the NORC report itself.

18           CHAIR JAMES: Are you suggesting substituting that or  
19 adding that paragraph that you just read?

20           COMMISSIONER DOBSON: Adding that.

21           CHAIR JAMES: Commissioner Wilhelm.

22           COMMISSIONER WILHELM: Madame Chair, if we're going  
23 down this road, I'd like to have a week or ten days to rewrite  
24 all of this to qualify every single -- or, I'm sorry, to further  
25 explain, within the bounds of the NORC commentary, every single  
26 statistic that is attributed to NORC because they've all got, you  
27 know, caveats and that's the nature of survey work.

28           So if we're going to do that in one place, let's do it  
29 everywhere. I think we can do it in a week or ten days, at

1 least, for people's consideration. And I don't mind doing that,  
2 although I don't know where that leads.

3 COMMISSIONER LANNI: Madame Chair, I have a question,  
4 if I may.

5 CHAIR JAMES: Certainly.

6 COMMISSIONER LANNI: Jim, when you say the survey, is  
7 that the patron survey of -- NORC's patron survey?

8 COMMISSIONER DOBSON: Yes.

9 COMMISSIONER LANNI: It's purely patron survey?

10 COMMISSIONER DOBSON: Right.

11 COMMISSIONER LANNI: And is that -- just asking. I'm  
12 just asking. Now it's a total.

13 What does that mean, Rod?

14 COMMISSIONER DOBSON: It's the entire survey.

15 COMMISSIONER LANNI: Okay, the entire survey, meaning  
16 the telephone and -- the random telephone and the survey? You  
17 believe so. You're not sure, but you believe so? You're not  
18 sure.

19 COMMISSIONER DOBSON: We're quoting directly from NORC  
20 here. We can check on it.

21 COMMISSIONER LANNI: Well, unfortunately I don't have  
22 page 34, 33 or 31 in front of me. I'm just asking what the  
23 source of NORC's information on this is, if it's the telephone  
24 survey or if it is the patron survey.

25 If it's a combination of those two, that's one thing.  
26 But again, I think one thing we have to do here, we take a survey  
27 -- let's just say it's the patron survey, 500 individuals, of  
28 which 13%, or 63 people, responded to the fact that they -- based  
29 upon their responses, that they were determined to be problem or  
30 pathological gamblers.

1           How we extrapolate from 500 people and 63 responses in  
2 this category to the multi-billion dollar figures and millions of  
3 people I think is irrational at best. And I think we said before  
4 -- or someone else said, and I think it's very accurate, what we  
5 have learned is we don't know a lot about this.

6           There needs to be a lot more research. And I am not  
7 prepared to accept a survey of 500 people with 63 responses in a  
8 lifetime to determine that these numbers can be extrapolated.  
9 And I know that, in fairness, Jim, you're a decent guy.

10           I find you to be a very bright and decent human being.  
11 You want these numbers to be high. Arguably, I'd want the  
12 numbers to be low. Realistically, I don't think we know what the  
13 numbers are.

14           And I think every time we try to come to a definitive  
15 decision based upon 500 people in a survey, we're going to look  
16 foolish. And I cannot be part of looking foolish. If someone  
17 else wants to be, that's their prerogative.

18           COMMISSIONER DOBSON: Yesterday you and I think John  
19 objected to my concerns about the youth survey, which was based  
20 on far fewer than 500, and that we needed to leave that in the  
21 report despite the fact that it didn't correlate at all with  
22 other studies that were done.

23           So we can't pick and choose.

24           COMMISSIONER LANNI: I did not respond on that  
25 particular matter. But if you think I did, I'll be happy to say  
26 that I did. I think John raised that particular issue and noted  
27 that he didn't have anyone supporting him on that issue, if I'm  
28 not mistaken.

29           COMMISSIONER WILHELM: Yes, I really would like to be  
30 interpreted accurately. What I said yesterday was that I think

1 that the section on pathological gambling doesn't nearly -- isn't  
2 nearly hard hitting enough with respect to youth gambling.

3 And I still think that. And I think that part of the  
4 reason for that is that we don't have the data and that's our  
5 fault.

6 So that's a little bit different, Jim, from what you  
7 just attributed to me.

8 COMMISSIONER DOBSON: It's out there. Do with it what  
9 you will. I think this is a qualifier by the researcher. When  
10 the researcher himself says we have a problem with the accuracy  
11 of the respondents or their willingness to admit that they have a  
12 problem, that ought to be represented in the report.

13 And to ignore that, I think, is a big mistake.

14 COMMISSIONER LANNI: I would add, I think, Jim, if  
15 you're going to make a suggestion, I think I would come prepared  
16 knowing if it were the telephone survey, if it's the random digit  
17 dial survey, or if it's the patron survey or a combination.

18 You're not even sure, nor is your associate sure, of  
19 what the source is.

20 COMMISSIONER DOBSON: Terry, when you disagree with  
21 someone, you tend to attack the individual. This came up at 5:00  
22 last night. We're here, not in Colorado Springs. We did the  
23 very best we could to pull that information together in an  
24 evening.

25 Last night we brought the information. There's one  
26 little fact that's not there. If that's a problem for you, we'll  
27 find it.

28 COMMISSIONER LANNI: I appreciate your efforts, Jim,  
29 and I think you have made significant efforts in trying to get

1 that information. And if you feel that my attacks are personal,  
2 you'll just have to feel that they're personal.

3 They're not intended to be. I just feel as strongly  
4 about this issue as you do. And I respect the fact that you feel  
5 strongly, and I would expect you would respect the fact that I  
6 have the same feelings.

7 CHAIR JAMES: Let me ask this. Terry, in looking at  
8 the language that Jim is suggesting, it seems that what I hear  
9 your objection -- a big part of it is that it's based on a very  
10 small piece. It's based on 500 with 63 particular respondents  
11 out of a survey of 500.

12 If that were noted in the document that, based on the  
13 survey of 500 people with 63 respondents, could then the language  
14 follow?

15 COMMISSIONER LANNI: Kay, your point is well taken. I  
16 think that the issues that I have concern with, without going  
17 into the specificity at the moment, although I'm certainly  
18 prepared to, is that when proponents of this gambling industry  
19 look at numbers, and I happen to be a proponent of the industry  
20 obviously, we tend to look for the numbers that are most  
21 reflective of our position.

22 I think opponents do the same thing. In the numbers  
23 that are presented by individuals -- I don't want to say Jim  
24 because he says it's personalizing it -- but the numbers that are  
25 being presented today are taking the worst case of very small  
26 samples, and I don't think that that is appropriate.

27 If there are qualifiers, and if we show the ranges, I  
28 have no problem with utilizing the numbers of NORC. I have my  
29 feelings about NORC. I've expressed them before. But I have no

1 problem using the ranges and no problem using the fact that there  
2 are qualifications, that this is a small survey.

3 I firmly believe, in my heart of hearts, that we need  
4 more research, more study in this area, and we've learned that we  
5 don't know a lot about it. And to reach conclusions that seem to  
6 be very factual -- you know, saying, for example, on page six of  
7 this same section that -- I'll give you a perfect example, if I  
8 may, and I think it's on point.

9 You come to the expenditures on page five. It says,  
10 "The Commission heard repeated testimony" -- and I won't read it  
11 all, but let me give you the one section.

12 CHAIR JAMES: Is this the substantial?

13 COMMISSIONER LANNI: Yes.

14 "The Commission heard repeated testimony from  
15 individual compulsive gamblers" --

16 COMMISSIONER DOBSON: That goes on to another issue.

17 COMMISSIONER LANNI: No, but I just wanted -- and it is  
18 another issue, Jim, there's no doubt about it. But I think it's  
19 a classic case in point and I want to take a moment and present  
20 it if I can find that section.

21 It's the one that's determined -- yeah, it's the bottom  
22 of page five, problem and pathologic -- this is the statement.  
23 And this is the concern I have with the statement. It is  
24 classical, in my opinion. It's line 20.

25 "Problem and pathological gamblers account for a  
26 substantial percentage, in the billions of dollars, of gambling  
27 operation revenues each year."

28 I don't know what that's based on. I was told it was  
29 based on NRC. Now, I go to the NRC report and they talk about  
30 gambling expenditures in here. And in the report where they come

1 up with this four and a half times for the gambler as compared to  
2 the problem and pathological problem is four and a half times in  
3 expenditures what the non-problem gambler would be.

4 In this report by the NRC, which is not evidenced by  
5 the very strong statement here, it says in the following: the  
6 gambling expenditures. Eight of the studies listed in Table 3.3  
7 -- this is page three of seven of the NRC report.

8 "Eight of the studies listed in Table 3.3 reported the  
9 responses of gamblers to questions about their net monthly  
10 gambling expenditures." I quote. "Although expense reporting  
11 has dubious accuracy, the data, nonetheless, provides some  
12 indication of the order of magnitude of the gambling expenditure  
13 of pathological and problem gamblers."

14 I think it's misrepresentation to translate that to a  
15 defined determination that these figures are fact. I don't think  
16 we have the qualifications that were included in the report that  
17 we paid a great deal of money for.

18 That's all I'm saying.

19 COMMISSIONER DOBSON: Madame Chair.

20 COMMISSIONER LANNI: And I don't think that's a  
21 personal attack.

22 COMMISSIONER DOBSON: May I go back to the other issue  
23 and then come back to this one?

24 CHAIR JAMES: Yes.

25 COMMISSIONER DOBSON: Ron has handed me the reference  
26 with regard to the number in the NORC study at this point. And  
27 it says on page 30 Table 10, which is based on the RDD plus  
28 patron data -- so that's 3,500. That's an "n" of 3,500, not 500.

29 COMMISSIONER LANNI: Well, I was asking. I didn't know  
30 if it was -- at the time, I didn't have that page in front of me.

1 And I appreciate that information, but my position remains the  
2 same, Jim. I think we're trying to determine definitive answers  
3 where there are a lot of qualifications in the statistics which  
4 we're utilizing to try to reach those definitive answers. That  
5 is my point there.

6 CHAIR JAMES: Well, let's see if we can. Let's take  
7 this piece right here, see if we can come to some resolution as  
8 to what this Commission is going to say on this point in the  
9 final report.

10 Terry, what I heard you say was that if we included  
11 ranges or accurately reflected the data and then gave the  
12 statements from NORC, that you would not have a problem with  
13 that.

14 COMMISSIONER LANNI: Again, I have my feelings about  
15 NORC, but in this area of compromise and reasonableness, I would  
16 just like to say if generally there can be ranges based upon the  
17 information, definition of the number of people reaching that  
18 conclusion, and where there are qualifications, such as in NRC,  
19 because qualifications should be there and we shouldn't be as  
20 definitive and these are facts when I don't think they are  
21 necessarily confirmed to be facts.

22 COMMISSIONER DOBSON: That is my view. There are no  
23 numbers in this statement. Let me read it again. "Data within  
24 the NORC survey give indications that gamblers tend to understate  
25 their negative experiences with gambling," pretty conservative  
26 statement. "For instance, survey respondents" --

27 COMMISSIONER LANNI: I would expect no less from you.

28 COMMISSIONER DOBSON: -- "greatly exaggerated their  
29 wins and under-reported their losses. Further, respondents were  
30 five times more likely to report that their spouses' gambling

1 contributed to a prior divorce than to admit that their own  
2 gambling was a factor."

3 That doesn't seem like some gross overstatement of the  
4 facts to me.

5 COMMISSIONER LANNI: I think it is a statement of  
6 indications, not a statement of facts. I don't think they have  
7 been determined to be facts. They are indications. And these  
8 people said that --

9 COMMISSIONER DOBSON: That's the word that's used.

10 COMMISSIONER LANNI: You had mentioned the word  
11 "facts." I was merely saying it was not a word.

12 CHAIR JAMES: Okay. Let's do this. Let's continue to  
13 work with that, Jim. That seems like language that, if  
14 appropriately noted, we could incorporate there. As we continue  
15 the editing and drafting process, we will see how we can fit that  
16 in and, Terry, work with you to make sure that it's language that  
17 you can't.

18 Let's go back to the substantial percentage. That's  
19 the next. Was that your next one?

20 COMMISSIONER DOBSON: It is.

21 CHAIR JAMES: Okay.

22 COMMISSIONER DOBSON: That's on Page 5, -- that's what  
23 I got confused over a minute ago -- Lines 20 to 22, "Gamblers  
24 account for a substantial percentage in the billions of dollars  
25 of gambling operations revenues each year." That's what we were  
26 discussing.

27 Terry, you're probably not going to like this either,  
28 but let me read it to you.

29 CHAIR JAMES: He might. Let's start positive.

1 COMMISSIONER LANNI: That's never deferred your  
2 thinking in the past.

3 COMMISSIONER DOBSON: That's true. "It is of great  
4 concern to this Commission that problem and pathological gamblers  
5 appear to spend a disproportionate amount of money on gambling  
6 compared to non-problem gamblers.

7 Both NORC and Dr. Rachel Volberg and others have  
8 calculated that the problem in pathological gamblers account for  
9 about 15 percent of total gambling revenues or about 7.6 billion  
10 per year based on total annual gambling revenues of 51 billion.

11 Dr. Henry Lesieur has calculated that problem and  
12 pathological gamblers account for roughly 30 percent of gambling  
13 revenues, which would be approximately 15 billion per year.

14 COMMISSIONER LANNI: I have a question about that. I  
15 don't have those studies in front of me, but does that include  
16 legal and illegal gambling or is it all legal gambling?

17 COMMISSIONER DOBSON: Again, I think --

18 COMMISSIONER LANNI: The number of 51 billion is legal  
19 gambling, but I'm saying: Do those reports include illegal  
20 gambling?

21 COMMISSIONER DOBSON: Legal.

22 COMMISSIONER LANNI: Only legal gambling? That's  
23 Lesieur, Volberg, and the NRC does not indicate if this is  
24 illegal or legal gambling in their analysis of -- or not  
25 analysis, the one they refer to as the dubious accuracy of the  
26 data in interviewing these people, responsive gamblers, to  
27 questions.

28 CHAIR JAMES: Let's do this. Let's look at the --

29 COMMISSIONER LANNI: I have a question. I don't know  
30 if that's legal and illegal.

1 CHAIR JAMES: Before we get into the fact-checking  
2 piece of it, let's talk about the policy issue that is being  
3 discussed there. Jim, if you would, just read the statement  
4 before you get into the --

5 COMMISSIONER DOBSON: Do you want me to read the whole  
6 thing again?

7 CHAIR JAMES: No. Just the statement piece, not the  
8 particular researchers, to see in terms of --

9 COMMISSIONER LANNI: Is this replacement? There are  
10 two pieces. One piece is a statement about the behavioral  
11 problem of pathological gambling.

12 CHAIR JAMES: Right.

13 COMMISSIONER LANNI: The other piece, as I understand  
14 it, is a bit of reporting about what --

15 CHAIR JAMES: About the researchers.

16 COMMISSIONER LANNI: -- the researchers --

17 CHAIR JAMES: And I'm saying substitute out the  
18 researchers right now and let's just take the policy piece of it.

19 COMMISSIONER DOBSON: Let's take the first statement?

20 CHAIR JAMES: The first statement.

21 COMMISSIONER DOBSON: Okay. "It is of great concern to  
22 this Commission that pathological gamblers appear to spend a  
23 disproportionate amount of money on gambling compared to  
24 non-problem gamblers."

25 CHAIR JAMES: Okay. Any disagreement with that  
26 statement?

27 COMMISSIONER WILHELM: Could you read it one more time?

28 COMMISSIONER DOBSON: Yes. "It is of great concern to  
29 this Commission that problem and pathological gamblers appear to

1 spend a disproportionate amount of money on gambling compared to  
2 non-problem gamblers."

3 CHAIR JAMES: Discussion?

4 COMMISSIONER MOORE: That's pretty benign-appearing.  
5 So I don't see where we can object to that.

6 COMMISSIONER BIBLE: You're talking about their own  
7 personal money?

8 COMMISSIONER MOORE: Right.

9 COMMISSIONER DOBSON: Right.

10 COMMISSIONER BIBLE: They're spending a great  
11 percentage of their personal money on gambling. That makes  
12 sense, yes.

13 COMMISSIONER MOORE: More than non-gamblers.

14 CHAIR JAMES: Okay. So we have no problem with the  
15 statement. Now, it seems to me that on the researchers, one of  
16 the questions that you're asking, Terry, is a fact checking to  
17 make sure that when we quote a particular researcher, that it is  
18 in the proper context and that they make a particular distinction  
19 between legal and illegal gambling. That's not a question we can  
20 resolve right now.

21 COMMISSIONER LANNI: That's correct, but my strongest  
22 concern is the statement on Lines 20 and 21.

23 CHAIR JAMES: I think the suggestion was that this  
24 language would substitute for that. Is that correct?

25 COMMISSIONER DOBSON: That's right.

26 CHAIR JAMES: Yes.

27 COMMISSIONER LANNI: And that --

28 CHAIR JAMES: He's taking that out.

29 COMMISSIONER LANNI: What would be deleted, then, Jim?  
30 Which lines would be deleted?

1 CHAIR JAMES: Twenty through 22.

2 COMMISSIONER WILHELM: Well, not all of it. It's 20  
3 beginning with the word "problem."

4 CHAIR JAMES: In the interest of being reasonable, Dr.  
5 Dobson is suggesting dropping that language.

6 COMMISSIONER LANNI: I said he was a good and decent  
7 human being. I just don't always agree with him.

8 CHAIR JAMES: Yes. So the suggestion is that that  
9 language be deleted, the other be substituted. Any further  
10 discussion?

11 COMMISSIONER LANNI: If that is the extent of it,  
12 although I see an amendment coming forward.

13 COMMISSIONER DOBSON: That's right, 20, 21, 22.

14 COMMISSIONER LANNI: Okay. I have no problem with  
15 that. I think that is a very good suggestion on Jim's part.

16 COMMISSIONER DOBSON: Thank you, sir. You're a good  
17 and decent man.

18 COMMISSIONER WILHELM: Jim, don't take that compliment  
19 personally.

20 COMMISSIONER LANNI: Jim and I have this secret thing.  
21 We are both USC graduates. So you guys don't know what we're  
22 really doing together.

23 COMMISSIONER DOBSON: I'm still smiling over your  
24 comments about losing Anna.

25 COMMISSIONER LANNI: Unfortunately, I have those strong  
26 feelings about that particular area. But, as I said, John has  
27 had the good sense to move you out of that state.

28 CHAIR JAMES: I think we have made some progress on  
29 that. And I will ask the staff to do the fact checking and work  
30 with one on the researchers that were quoted there. And, Terry,

1 we will make sure that it is noted in some sense whether it's  
2 illegal or legal, that particular --

3 COMMISSIONER DOBSON: Okay. The other issue we  
4 discussed is Page 20, Lines 17 to 20. Actually, it starts on 17,  
5 the end of the line, "A review of various practices engaged in by  
6 different forms of gambling that contribute to or exacerbate a  
7 problem gambling condition must also be a property."

8 CHAIR JAMES: It was just not clear in the language.  
9 And so they were going to redraft.

10 COMMISSIONER DOBSON: We are suggesting that the words  
11 "may contribute" be substituted for "that contribute." I can go  
12 through a list of sources for that and reasons for it if you have  
13 a problem.

14 CHAIR JAMES: If on Line 19 you substitute "may" for  
15 "that" --

16 COMMISSIONER LANNI: No. It's "in addition to."

17 CHAIR JAMES: "In addition to."

18 COMMISSIONER LANNI: "That may."

19 CHAIR JAMES: "That may."

20 COMMISSIONER DOBSON: "That may," yes.

21 COMMISSIONER LANNI: Jim, when I raised that, it  
22 actually began with Line 15 where I had some concerns.

23 COMMISSIONER DOBSON: Okay.

24 COMMISSIONER LANNI: What I had asked for was: What  
25 was the source of "The rapid proliferation of" -- this is Line  
26 15, Page 20, the same page you were just reading. It says, "The  
27 rapid proliferation of gambling must be recognized as a  
28 significant contributing factor to the increase in problem and  
29 pathological gambling."

1 I had asked what the source was from that, and I think  
2 it was mentioned it was NORC.

3 COMMISSIONER DOBSON: Let me list the sources for that  
4 paragraph.

5 MR. RENO: Pages 12 and 13, Schaeffer, Volberg, NRC,  
6 abundant personal testimony, Ed Luny, a number of GA chapters.

7 COMMISSIONER BIBLE: In terms of the study, why don't  
8 you tell us what the studies are and where the pages are where  
9 the data comes from so we can go take a look?

10 COMMISSIONER DOBSON: It's what Ron just said. It's on  
11 Pages 12 and 13.

12 CHAIR JAMES: Now, I would just say, Bill, for point of  
13 clarification, we're of the conclusion that what they're saying  
14 is that it's concluding information that was discussed on Pages  
15 12 and 13 where the actual cites are given so that you can go  
16 back to the pages and check the cites. Do you see that at the  
17 bottom of Page 12?

18 COMMISSIONER LANNI: Yes. This is a summary, if you  
19 would, of what those comments are.

20 CHAIR JAMES: Right.

21 COMMISSIONER LANNI: But to me I have to accept. And  
22 in accepting, the concluding statement is automatically accepting  
23 Volberg's, Schaeffer's, and -- what was the third one, Ron? I'm  
24 sorry.

25 MR. RENO: NRC has cited.

26 COMMISSIONER LANNI: -- and the NRC cite without having  
27 read them to know what they actually have said to see if this is  
28 a proper conclusion. I think that's a concern I have.

1 We seem to reach these definitive conclusions based  
2 upon one or two or three or a combination of people's  
3 determinations. I don't think it's necessarily definitive.

4 CHAIR JAMES: My suggestion will be at that point that  
5 if you would like to go back and have additional time to review  
6 that and respond in writing, that that would be helpful.

7 COMMISSIONER BIBLE: No. That is essentially what I  
8 was asking. I want to go back to the source literature and take  
9 a look.

10 CHAIR JAMES: Okay.

11 COMMISSIONER DOBSON: Fair enough.

12 COMMISSIONER BIBLE: It would probably be helpful if  
13 you just asked Ron because he has all the material just to  
14 compile all the source literature and set it out with the  
15 chapter.

16 COMMISSIONER DOBSON: What Steve just said to me was  
17 that all of this information has been distributed to the  
18 Commissioners. You have got it already. You can read it for  
19 yourself.

20 COMMISSIONER LANNI: I would be happy to read it. I  
21 think the issue is we're looking at it in light of this  
22 conclusion that you have reached as a result of your  
23 interpretation of this literature. I would like the opportunity  
24 to review it and see if I have the same conclusion that you do.  
25 That's my question.

26 COMMISSIONER LEONE: May I ask a more fundamental  
27 question? Is it, in fact, a matter for debate on this Commission  
28 whether or not there is more gambling now in the United States  
29 than there was before it was legal --

30 CHAIR JAMES: No.

1 COMMISSIONER LEONE: -- in all the places legal? I  
2 mean, the Commission generally agrees that there's more gambling;  
3 right?

4 COMMISSIONER LANNI: Of course.

5 COMMISSIONER DOBSON: Yes, we do.

6 COMMISSIONER LEONE: Forget the cites. Wouldn't sweet  
7 common sense tell us that, therefore, if more people are  
8 gambling, that would produce more problem gamblers since there's  
9 a propensity to become a problem gambler among 100 percent of the  
10 population?

11 This seems to me to be a remarkably modest conclusion  
12 to draw about the history of the last 25 years. I mean, I  
13 understand your point in general about citations and authority,  
14 and there are other places in the report where I think we don't  
15 make ourselves clear.

16 But I assume one thing there, one of the several  
17 things, there is unanimity about is that we have changed  
18 dramatically from a country where there is a very limited amount  
19 of legalized gambling to one where there is a lot more of it.

20 Some people say not enough. Some people would say too  
21 much. Some people would say we need a moratorium. But I guess  
22 I'm missing something of what we're arguing about here.

23 I mean, it seems to me all Jim is asserting or all this  
24 language suggests is that with more gambling we're likely to  
25 produce more winners and more losers and more problem gamblers.  
26 I don't know what I --

27 CHAIR JAMES: Commissioner Loescher?

28 COMMISSIONER LOESCHER: Madam Chair, I'm not quite sure  
29 Dr. Dobson and Mr. Lanni are done, but I had comments.

1 CHAIR JAMES: Oh, no. Let's finish this one before we  
2 introduce a new one.

3 COMMISSIONER LOESCHER: Okay. No. I was just --

4 COMMISSIONER LANNI: You were just hoping, Bob.

5 COMMISSIONER LOESCHER: I wanted to deal with the  
6 recommendation section. Is that appropriate?

7 CHAIR JAMES: We'll get there in a second. No. Let's  
8 resolve this one because I think we have two different  
9 perspectives on the table.

10 COMMISSIONER McCARTHY: Jim, do you remember my taking  
11 out 15 million yesterday?

12 COMMISSIONER DOBSON: It feels to me like all three of  
13 these discussions generated a significantly more amount of  
14 emotion than is warranted by the nature of the comment.

15 CHAIR JAMES: But not unpredictable, unexpected, or  
16 even unwarranted. That's why we're here. It's going to be a  
17 spirited debate, and that's okay.

18 COMMISSIONER McCARTHY: We don't really need extensive  
19 documentation, do we?

20 CHAIR JAMES: No. I don't think they're saying  
21 experiment --

22 COMMISSIONER McCARTHY: Our memories are good enough --

23 CHAIR JAMES: Excuse me just a minute, Leo.

24 COMMISSIONER McCARTHY: Our memories are good enough --

25 CHAIR JAMES: I don't think that they were asking for  
26 more documentation but just the opportunity to look at the  
27 documentation that is there.

28 COMMISSIONER McCARTHY: Well, they're asking, as I  
29 understood it -- perhaps I didn't hear correctly -- for citations  
30 of NORC or Volberg or the third one mentioned of --

1 COMMISSIONER LANNI: NRC I think.

2 COMMISSIONER McCARTHY: NRC.

3 CHAIR JAMES: And I think Dick raises a very good  
4 point.

5 COMMISSIONER McCARTHY: Using Dick Leone's reasoning,  
6 is there any real dispute about this section?

7 COMMISSIONER MOORE: It's pretty benign.

8 COMMISSIONER WILHELM: I personally have no problem  
9 with this paragraph as it was just amended. I continue to have  
10 the gravest reservations in other sections of this chapter and,  
11 in particular, in the section, Jim, that we were talking about a  
12 few minutes ago with trying to lob in some parts of the argument  
13 but not other parts of the argument all the qualifiers that  
14 necessarily pertain to a survey.

15 CHAIR JAMES: Okay. Well, let's resolve this one  
16 before we move on.

17 COMMISSIONER WILHELM: With regard to this particular  
18 paragraph, I have no problem with it.

19 COMMISSIONER LANNI: The response that Jim gave as to  
20 the source or Ron did as to the source at least included the  
21 report. So that answers my question there.

22 The issue on the word "may" contribute I think is an  
23 appropriate modification. So I have no problem with it.

24 CHAIR JAMES: Well, then, good. That one is resolved,  
25 and we can move on. If you just stick at it long enough, -- I  
26 know it's hard -- we can usually get there.

27 COMMISSIONER LEONE: I do think the point John is  
28 making, though, is something I want to go on record on. And here  
29 on some things I'm disagreeing with one side, some things the  
30 other side.

1 I think the qualifiers and the language framing the  
2 research are important because I have been on both sides of the  
3 argument all along. The way all research tends to be used in an  
4 argument is selectively without the qualifiers.

5 I mean, it's like yesterday when I said in the last  
6 year alone. You give me 20 minutes with this report, and I'll  
7 turn it into a document one way or the other.

8 So I think that it's important, and I think that is the  
9 importance of what Jim was talking about earlier, but it's also  
10 the importance of what John has talked about about other  
11 qualifications and what Terry has talked about.

12 Start from the beginning. If the research is research,  
13 it stands on its own. Personally I think in advance is what we  
14 know, but by no means does it lead us to wisdom. And we should  
15 have the qualifiers in, even if it's in footnotes, as we go along  
16 and probe from this research.

17 It seems to me several of the recommendations to do  
18 that, John's earlier and Jim's today, are appropriate. I mean,  
19 the last thing we want to do is join the chorus on both sides  
20 that has tended to use research findings fast and loose without  
21 qualifying.

22 COMMISSIONER DOBSON: The last comment on that: I  
23 cannot imagine a researcher recognizing that the findings that he  
24 has generated are invalid for some purpose and then not reporting  
25 that with these data. That is essential to any researcher, --

26 CHAIR JAMES: And NORC, in fact, did that.

27 COMMISSIONER DOBSON: -- especially one who has gone to  
28 some length to tell you there's a problem here.

29 CHAIR JAMES: Bob, you had a question, and it was  
30 dealing with the recommendation section. I with your concurrence

1 want to go to John to see if we can finish up the body before we  
2 go to the recommendation.

3 John, you said you had another point, and I asked you  
4 to stick with this one. Have you already --

5 COMMISSIONER WILHELM: No. I already said it. If the  
6 Commission at some point decides to include that other stuff Jim  
7 was talking about to put the NORC research in the best light from  
8 his perspective, then I think we need to do that throughout.

9 I think we need to be consistent. We are either going  
10 to include all the caveats and qualifiers on every single point  
11 NORC makes or we're not. I don't think we should do that  
12 selectively. I think that is a disservice.

13 Also just as a personal aside, Richard, perhaps I'm  
14 insufficiently self-critical. And if that's anybody's judgment,  
15 I wouldn't argue, but I don't really perceive that on the issue  
16 of pathological gambling, there are sides here.

17 I have no side. I take no second place to anybody here  
18 in terms of my concerns about that issue. I do believe there  
19 ought to be some balance in this report, and I believe we also to  
20 assert facts.

21 Again, I don't want to argue the point because if  
22 someone has a different view of my behavior, then that's fine. I  
23 don't take exception to that. But I don't see sides here on this  
24 particular issue.

25 COMMISSIONER LEONE: I didn't mean sides. I meant  
26 sides in the sense that a family will sometimes have  
27 disagreements among family members.

28 CHAIR JAMES: I dare say on this particular issue that  
29 we can speak with one voice in some of the strongest possible  
30 language in terms of what we want to say about the position of

1 this particular commission on pathological and problem gambling.

2 With that, I will -- yes, Terry?

3 COMMISSIONER LANNI: Sorry. Not to belabor the point,  
4 but, again, if you'd look at qualifiers, on Page 6, when we get  
5 to the NRC on this particular section, it talks about on Line 1,  
6 "According to NRC, problem and pathological gamblers report  
7 spending four and a half times as much on gambling each month as  
8 do non-problem gamblers."

9 And then I would repeat again: In the NRC report,  
10 where this was drawn from, by their own admission, it says,  
11 "Although expense reporting has dubious accuracy, the data,  
12 nonetheless, provides some indication of the order of magnitude."  
13 If we're going to have qualifiers there, I think there should be  
14 a qualifier there because that is not included in that.

15 CHAIR JAMES: Unless we go through the --

16 COMMISSIONER LANNI: That's 3 of 7 of the NRC report.  
17 I have it right here if you want to see it, the qualification.  
18 Then it says, "Thus, by self-report, pathological and problem  
19 gamblers spent approximately four and a half times as much per  
20 month as gamblers without problems on their gambling activities."

21 So we have that statement, but we don't have the  
22 qualification questioning that in the same paragraph from the  
23 same people.

24 COMMISSIONER DOBSON: Put it in there.

25 COMMISSIONER LANNI: You're writing that, and I'll be  
26 happy to support you doing it.

27 COMMISSIONER DOBSON: Do it. Do it.

28 COMMISSIONER LANNI: It's Page 3 of 7. I'll pass that  
29 down to you so you have it. I'm more generous with the documents  
30 that I have.

1 CHAIR JAMES: Gentlemen.

2 COMMISSIONER LEONE: It's nothing personal.

3 (Laughter.)

4 COMMISSIONER LANNI: That's very personal.

5 CHAIR JAMES: Bob?

6 COMMISSIONER LOESCHER: Thank you, Madam Chair. I was  
7 looking at this recommendation section. And I have been  
8 reviewing these other papers by Dr. Dobson and others about where  
9 this should go.

10 A couple of observations first before I make my  
11 comments. One is that in previous Commissions meetings, I  
12 indicated that I was a bit underwhelmed by the NORC work and  
13 other work. And as a business person, I probably wouldn't make  
14 decisions based upon the information that was provided there.

15 Notwithstanding that, all across America, we went to  
16 hearings. And I was persuaded by the vivid stories of people who  
17 have pathological gambling problems. They were very dramatic  
18 stories, and they are real.

19 The other thing is that I heard in the hearings from  
20 people who are practitioners, people who practice in dealing with  
21 problem gamblers and pathological gamblers. There is a  
22 difference between research and practicing to help people.

23 I am a bit more persuaded by those people who are in  
24 the practice of trying to help people and what they have said in  
25 our hearings and also their recommendations.

26 I was particularly remembering the two ladies. I don't  
27 know. I think it was New Orleans or somewhere, the one that was  
28 from the milder, psychiatrist of whatever. She made that point  
29 very vividly about the difference between the research and the

1 practitioner trying to help people who are problem gamblers and  
2 practitioners.

3 In the recommendations, I don't see much in there that  
4 does much to support people who are currently trying to help  
5 problem gamblers, the practitioners. We talk a lot about  
6 research here and this and that, but I would like to ask the  
7 Commission to consider some of those recommendations from  
8 practitioners and also to consider the lists.

9 We did get a long list of recommendations from the  
10 associations, and they grouped themselves together nationally and  
11 are working together nationally. Our recommendations don't  
12 encourage that private volunteerism of groups and associations  
13 working across America to solve problem gambling.

14 I think we should have a recommendation there that we  
15 endorse that kind of activity and that the networking takes place  
16 across America, that there be pooling of research monies into  
17 areas. We have noticed one or two places were beginning to pool  
18 their monies and researchers to do that.

19 The other thing is that they recommended -- and I don't  
20 know all of the right terminology -- standards and methods, that  
21 there be uniform standards and methods of diagnosis. And we came  
22 up with our own approach through our contractors and whatnot and  
23 seem to have landed on that, but we ought to recommend that idea  
24 that there be uniform methods and means to diagnose people.

25 Then, lastly, the recommendations from the national  
26 association or the groups that are involved in this, they had a  
27 long memorandum to us about a month or a month and a half ago. I  
28 would like to see some of that incorporated into the final  
29 recommendations.

30 Madam Chair, those are my only comments about this.

1 CHAIR JAMES: Thank you. I would say for the benefit  
2 of all of the commissioners that I met with the staff this  
3 morning. And I know that all of us are concerned about many of  
4 the recommendations that have come up over the course of the  
5 Commission that we want to see that we have reached agreement on  
6 and that are very strong and we want to see reflected in the  
7 documents.

8 I have asked Dr. Kelly to go back through every  
9 transcript, every piece of correspondence from Commissioners, as  
10 well as the previously prepared document of recommendations that  
11 have come in from various organizations and by Friday evening to  
12 have prepared for Commissioners a set of recommendations that  
13 should be at the end of each chapter. That will be coming out  
14 for your review on Friday so that we can have it all in one  
15 place.

16 I've asked for the language to be forceful. I've asked  
17 for it to be explicit. I asked for it to be in English and to be  
18 as strong as possible. I also asked that in the recommendations  
19 they be very specific about who we are making this recommendation  
20 to.

21 Are we recommending to the President or to Congress or  
22 to governors, to leaders of tribal nations -- I want to be clear  
23 that we leave no one -- or to the citizens of this country? --  
24 off the hook in terms of things that they can and should be doing  
25 about this issue.

26 COMMISSIONER WILHELM: The universities.

27 CHAIR JAMES: And universities. Absolutely. We had  
28 some excellent recommendations that I think came out of our  
29 Virginia Beach meeting about what universities and research  
30 institutions could and should be doing.

1 Jim, I think you will see incorporated many of the  
2 things that you recommended in that list that will be a point of  
3 departure for discussion. Now what we have to do is decide as a  
4 Commission how best to work our way through that list. But it  
5 will be very helpful to have that in one place.

6 COMMISSIONER WILHELM: I appreciate your working with  
7 the staff to that end, Kay. I think that will be extremely  
8 helpful. One that point, if I may, Jim gave us a -- I didn't  
9 count -- long list of recommendations late yesterday.

10 I certainly, Jim, don't want to be interpreted as  
11 suggesting in any way, shape, or form that either you or any  
12 other Commissioner shouldn't make as many recommendations as you  
13 believe are important.

14 On the other hand, if we have numbers of  
15 recommendations on that order of magnitude from one or more  
16 Commissioners at this late stage, in reading these last night, I,  
17 frankly, to be candid, Kay, panicked because I can't imagine how  
18 we could work through these things in that length of time.

19 There were a few of these in that particular packet  
20 yesterday that are the same subject matter but different language  
21 from ones that we adopted at the last meeting and that Jim  
22 rightly points out don't show up anywhere.

23 For example, we adopted one, I believe, or at least the  
24 consensus was unanimous if you can have unanimous consensus in  
25 support of a recommendation you made, Jim, about destination  
26 resorts. And, yet, in this one, there is a very differently  
27 worded recommendation on the identical subject.

28 Likewise, there was a clear consensus on one about ATM  
29 machines and stuff like that. And, yet, there's a different  
30 version of that in here.

1 More broadly than those particular conflicts, I am  
2 completely at a loss as to how it is that -- assuming that we  
3 have these and Jim may have more and that other Commissioners no  
4 doubt will have their own, I don't know how we get from here to  
5 anywhere.

6 CHAIR JAMES: Let me suggest this. One of the things  
7 that I think will be important for Dr. Kelly to do is as he looks  
8 at the transcript, to come up with the language that we did reach  
9 consensus on.

10 I will ask him to work with Dr. Dobson and other  
11 Commissioners who have submitted those to go through and say:  
12 This one, let's bump this off. That takes care of this. Maybe  
13 one, we'll combine two or three and come up with one list that we  
14 will all work off of.

15 COMMISSIONER DOBSON: And in reference to John's  
16 comments, a lot of these things have already been discussed.  
17 They are past us now. This was a list that was put together  
18 several days ago, before we had seen the draft document.

19 Part of it was a lack of confidence that the things we  
20 had decided here were going to show up there. So they're  
21 repeated in here. Some of these are not our comments but your  
22 own. You'll find Richard's comments in here and Leo's and  
23 others. So it's really a compilation of some of the  
24 recommendations that have come out. You know, whatever --

25 CHAIR JAMES: And, John, what I am asking Tim to do is  
26 to produce the official version of this.

27 COMMISSIONER WILHELM: Okay. And I didn't mean my  
28 comments to be critical to either Jim or anyone else. I mean,  
29 having read the people and places stuff, I tilt a lot myself, but

1 I was hanging on to see if I could stop from falling all the way  
2 over one side of this issue in reading it.

3 I want to have six or seven or eight recommendations  
4 related to economics later today, which is just as late in the  
5 game as this pile from Jim. So I just don't know how we get from  
6 here to anywhere.

7 COMMISSIONER BIBLE: We probably need to talk about  
8 process as to how we're going to work our way through the next  
9 couple of months.

10 CHAIR JAMES: We do.

11 COMMISSIONER BIBLE: It's becoming very, very difficult  
12 to keep track of all of the information. We have various  
13 versions of the chapters. We have three or four different people  
14 writing them. We have recommendations that don't get put into  
15 the chapters. And then we have --

16 CHAIR JAMES: Bill, my recommendation is going to be  
17 that we continue to work through this document, at the end of the  
18 day see where we are, and have the discussion on calendars and  
19 process and where we go from here. So if you don't mind delaying  
20 that until that?

21 I asked you to bring your calendars.

22 COMMISSIONER BIBLE: I've got my calendar.

23 CHAIR JAMES: I know that we will have to discuss  
24 process. It's just when we do it.

25 Having said that, what I would like to do now is to  
26 turn our attention to the remaining areas to be discussed:  
27 technology, gamblings, economic impact, people and places. It's  
28 10:00 o'clock. I'm going to suggest we take a ten-minute break  
29 and come back together and pick up our agenda right there.