

1 CHAIRPERSON JAMES: I'd like to, with the permission of the
2 Commission, dispense with the break that we had scheduled at this
3 particular time and move directly into our staff report. And
4 it's again my pleasure to introduce Doug Seay who is the Policy
5 Director of the Commission staff who will give us a briefing on
6 the social and economic impacts of Native American Gambling and
7 Doug welcome back.

8 MR. SEAY: Thank you. Well, I thought I had the very
9 good excuse yesterday about why I was going to read from my text,
10 but I got a better one today. Very nicely appointed resort in
11 the desert and you may have noticed these cactus plants, some of
12 them with red fruit, I'm told they're called prickly pears.
13 Don't pick those up. I did.

14 CHAIRMAN JAMES: They're call prickly for a reason
15 you're telling us?

16 MR. SEAY: I did, they have, what were to me
17 invisible needles, and I have about a hundred in my hand and I
18 just spent the last hour and half picking out 95 of them and I'm
19 trying to get the rest of them. Anybody who would like to shake
20 my hand I would ask you not to do so.

21 No, Martha Roberts was walking by as I was picking
22 them out of my hand and she said you know there ought to be a
23 sign warning people of that. Which I appreciated the sympathy,
24 but the thought that occurs to me is that everything can't be
25 idiot proofed.

26 A VOICE: Is that risk disclosure?

27 MR. SEAY: So, with that let, let me segue into
28 prickly topic of Indian gambling. Sorry for that.

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1 Although commercial gambling on Indian Reservations
2 it's a relatively recent phenomena it's quickly become a major
3 presence on quite a number of them around the country. Primarily
4 on the reservation, but off of it as well. And we've already had
5 extensive discussions of the legal and regulatory and
6 constitutional issues involved, but what really drives a lot of
7 the decision making here is obviously the social and economic
8 conditions on the reservations.

9 But in very short order the gambling which a decade
10 ago was only, in any large scale, only a couple of reservations
11 quickly became a major presence. And some have termed it "new
12 buffalo" which is a reference to the dominate role played by the
13 buffalo in the life of the Plains Indians prior to the last
14 century.

15 Although not all tribes embrace gambling, the high
16 profile success of some operations such as Foxwoods in
17 Connecticut which this Commission has been to, has helped to
18 ensure wide media coverage as well as hopes for emulation on the
19 part of a number of tribes to a greater or lesser extent.

20 According to the National Indian Gaming Commission
21 there are 558 tribes recognized by the federal government. There
22 are other tribes, by the way, the Federal Government does not
23 recognize and about 100 of them currently petitioning for
24 recognition, but they are without that recognition and they
25 really have no legal standing in the federal law.

26 Of those 558, 188 are operating 285 casinos in 28
27 states. Now their gross revenues are estimated to be around
28 seven billion dollars. And I say underline estimated because one

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1 of the frustrations of looking at the subject, and I just have to
2 say I think everybody who ever looks at it has said, is the
3 absence of reliable information. Indian gambling operations may
4 report or are required to report obviously to the National Indian
5 Gaming Commission a whole raft of information, but it's not
6 necessarily publicly available. And so a lot of these estimates
7 are little more than that.

8 For example, I know that Foxwoods, its annual take is
9 estimated from the fact that we know that the state of
10 Connecticut gets one quarter of its slot machine proceeds and
11 they work backwards from there, but that's the type of source for
12 a lot of the information. The only real subject -- only real
13 good source of information the past few years has been the GAL
14 studies of 1997, but that's rapidly coming out of date.

15 The seven billion dollar gross revenue, I should say,
16 compares for illustrative purposes to the FY/1998 budget for the
17 Bureau of Indian Affairs, the Department of the Interior which is
18 used for a number of things; tribal government operations, and
19 social services infra structure, which is about one tenth of that
20 amount.

21 So just comparing those two sources of income on
22 the reservation it shows the very dramatic impact the gambling
23 has had.

24 Although Indian gambling in many ways is merely a
25 subset of other types of gambling, a casino on an Indian
26 Reservation operates very similar to casinos around the world.
27 Same types of games and same types of expectations on the parts
28 of the players who go in there.

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1 They differ, obviously, to the extent that they are
2 in a different legal category altogether. And also the socio-
3 economic conditions on reservations which led to the introduction
4 of gambling in the first place.

5 According to the 1990 census there are approximately
6 2.1 million American Indians with 440,000 of them living on 314
7 reservations. So obviously only a minority of Indians live on
8 reservations whether by choice or simply because the reservations
9 can support them is -- factors into that particular figure.

10 And those -- it's very easy to lump Indians together.
11 I remember seeing a special once on Hollywood's version of the
12 Indians and they only had three types. And there was, you know,
13 the Colonial Indian and there was the Plains Indian and there was
14 another type, but obviously there's wide, wide varieties of
15 Indians and the conditions in which they live. And they range
16 from the Navajo's 160,000 on reservation members which is by far
17 the largest tribe. To some, the recognized tribes, which have
18 fewer than 10 members. And the Navajo's have a 27,000 square
19 mile reservation, most of it in northern Arizona which is big
20 enough to contain the enormous Hopi reservation within it's
21 borders. Down to some tribes which have no recognized
22 reservation at all. I think there's one tribe in Massachusetts
23 they have a single acre not that they live on, but that's the --
24 all that's left of whatever reservation they originally had.

25 Now, we've heard the word complex used many times in
26 describing Indian gambling and I would -- it's one I've used
27 myself. But there's one thing about the subject of Indian
28 gambling which is not complex and that is the socio-economic

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1 conditions on the reservations. I think by any standard
2 measurement they're quite grim.

3 The 1990 census reports that a majority of Native
4 Americans, about 51 percent, have incomes below the poverty
5 level. Indians living on reservations are the poorest ethnic
6 group in the United States. The average rate of unemployment is
7 about 50 percent, on some reservations it reaches 80, 90 percent
8 if you're talking about effective unemployment.

9 The drop out rate for Native American High School
10 students is the highest of any ethnic group in the U.S.
11 Alcoholism, drug use are exceptionally high, they rank among the
12 highest of any ethnic group if not the highest. Tribal housing,
13 a very large percentage is sub-standard by any measurement.
14 Public infrastructure services so and so forth. It's a fairly
15 grim litany of fairly bad socio-economic conditions. Health care
16 is a particular concern. Life, average life expectancy is 47
17 years.

18 So it's into this situation that gambling actually
19 was introduced. A number of different efforts have been tried
20 over the years to try to do something about the conditions on the
21 reservations. This problem has been there since before the United
22 States adopted its Constitution, obviously. Dealing with Indians
23 was a very high priority of government even before the
24 revolution.

25 But no real solution had ever been tried. And many
26 different approaches from simulation to removal of Indians.
27 Thomas Jefferson thought they could assimilated, President

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1 Jackson obviously thought differently and removed the Cherokees
2 from Georgia and other places to Oklahoma.

3 But the problem remains confinement to reservations
4 out of the eye of the general public has been one solution that
5 has lasted -- it's proven to have lasted, but its simply remove
6 the problem, I think, from public view rather than address it.

7 Beginning in the '60's there were efforts to try to
8 do something about this. But despite a number of reorganizations
9 and bureaucratic initiatives in the end the conditions on the
10 reservations at the end of fairly energetic attempts by the
11 government to transform the conditions on the reservations
12 produced very little positive result. And with tight and
13 declining budgets from the 1980's and certainly into the future
14 it does not look likely that that is a source of change in the
15 future.

16 And as I said it's into this picture that gambling
17 entered approximately 10 years ago when an unpredictable event
18 happened. A supreme court decision essentially removed all state
19 restrictions on Indian gambling. And Congress had to respond by
20 adopting the Indian Gaming Regulatory Act which was an attempt to
21 try to put some regulatory framework on it.

22 We've heard a lot of about the inadequacies of IGRA.
23 I think that's only to be expected since it was written for
24 entirely different conditions. No one, I don't think, either on
25 the reservation or in Congress had any idea that Indian gambling
26 on Native American Reservations was going to grow so rapidly into
27 such a large forest. So a lot of these questions were not even
28 considered at the time.

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1 So that the legislation is purposely vague in a
2 number of areas simply because it was assumed that it would never
3 really have any real application.

4 But it did divide the Indian gambling into three
5 classes and it's class three we're mainly talking here because
6 that's the only source of economic income on the reservation that
7 draws on the outside world.

8 Now prominent among the stated reasons for IGRA was
9 the stated belief that gambling could play a useful role in
10 funding tribal government operations and a lesser role in
11 economic development itself. Most tribes are very poor, they
12 have very little tax base and with government cut backs in
13 Washington it was felt that finding some means of funding
14 government operations was a high priority for IGRA.

15 On that basis a gambling industry was brought into
16 existence which quickly has succeeded, as I said, all
17 expectations of its potential. And has a transforming effect on
18 a number of reservations in terms of economic self sufficiency.

19 IGRA also provided for allowing the tribes themselves
20 to determine how the money would best be used as long as it was
21 used for general tribal betterment. And as long as it's used in
22 that context, i.e. for spending for social services and what have
23 you the federal government won't tax it.

24 But it also allows for -- IGRA also allows for, once
25 certain levels have been reached in economic development, for
26 income to be distributed on a per capita basis. That is taxed by
27 the government when that happens and a few tribes have chosen
28 that route.

Some of the more dramatic ones, such as

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1 the Mashantucket Pequot's or the Shakopee's these can amount to
2 several hundred thousand dollars a year per member, but more
3 commonly it's the range of \$100.00 or \$400.00 per capita so it's
4 not a trans -- a life transforming source of income. But that is
5 -- when people see those figures they automatically attribute to
6 a number of tribes that this a path to getting rich.

7 I think that Professor Thompson, who's going to be
8 speaking later on, uses the figures in fact I heard him outside
9 that's why I know I can pretty reliably quote these. Three
10 percent of all the gambling income or gambling operations of the
11 Indians -- I'm sorry, 50 percent of the Indian gambling
12 operations income is controlled by or benefits three percent of
13 the tribal members so it's highly concentrated in the few tribes.

14 And it's important to realize that most -- even most
15 of the gambling tribes have very small operations. Often a
16 casino is nothing more than a cinder block room with a couple of
17 slot machines in it. Aimed mainly at the tribal on reservation
18 population so its contribution to economic development of the
19 reservation is nil or close to it I believe.

20 As I said Indian gambling has quickly moved beyond
21 the original conception of its sponsors. It has become the most
22 prominent new source of funding on the reservations and a major
23 economic presence on others outside of the reservation itself.

24 Just to quote one example, which I think is probably
25 illustrative of its presence on the reservation, that 75 percent
26 of the revenues for the California Indian tribes comes from
27 gambling. That's an estimate, we don't know what the actual
28 figures are because they're not publicly reported. But that is -

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1 - that indicates why the disputes over gambling, especially in
2 California, are so bitterly contested because of the prominence
3 gambling has taken on the reservation in terms of its importance
4 in the economic community.

5 One note that I wanted to make about the problems on
6 the reservation is that there are a number of factors that are
7 cited to explain it. One is that all the good land was stolen
8 and the Indians were placed on land of marginal productivity
9 which I think is probably true, but it's a historical argument
10 and there's not much that can be done about it. Nobody's going
11 to be handing Manhattan back in the near future.

12 The other is that there's general societal
13 discrimination against Indians. I don't think there's any doubt
14 that that occurs, but I don't think it's a sufficient explanation
15 of why the reservations have such difficult economic conditions.

16 One that I think that is insufficiently commented on,
17 but I think is relative to this Commission's work even though
18 that's not a direct part of our mandate is the problems created
19 by the reservation system itself. Because I think it's
20 undeniable that that system itself is a significant obstacle to
21 economic development.

22 The fact is that the existence of reservations
23 ensures that Indians whether the original impetus was simply to
24 get them out of the way or to protect them from the population on
25 the outside, are now isolated from the general population to a
26 great extent. Not just physically, but economically, socially
27 and culturally as well and that inevitably has a impact on the
28 socio-economic conditions there.

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1 At a minimum the reservation system is not well
2 designed to promote the development of modern industrial service
3 or information based economy.

4 In fact, to the extent that modern society has based
5 their prosperity on private property, the free operation of
6 markets and individual enterprise and risk taking the communal
7 organization of reservations may be a key hinderance to the
8 improvement of economic conditions on the reservation.

9 I raise that simply because I think it's so important
10 to the debate, but it is almost never raised in the debates that
11 I have seen about Indian gambling. That part of the major
12 obstacle is the existing organizations of the reservations
13 themselves.

14 My background, I'm going to take a small segue here,
15 is in foreign policy so you might wonder what I'm doing in
16 gambling. But part of that was in the area of economic
17 development and I came across many, many, many societies,
18 countries, whatever and debates in each one of them were in many
19 ways the same. How do we participate in the economic and
20 technological benefits of western society and economy without
21 adopting necessarily western, social and economic structures.

22 How much -- how can we keep traditional social and
23 other structures and yet have these benefits? I'm unaware of any
24 case in which that was -- has been successfully done. There have
25 been many, many attempts. I just don't think that it's
26 necessarily possible, it's always a trade off. And people are
27 free to make that trade off because there are other things
28 obviously more important than simply money.

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1 And people who have chosen to continue the reservation system as
2 is obviously have other incentives, values that they wish to take
3 into consideration.

4 But I think we need to also look at the fact that the
5 reservation system itself is an obstacle. And I think that's one
6 of the reasons gambling has proven to be so popular because there
7 are very few ways that a communal organization can actually earn
8 enough money to bring their members into a modern level of socio-
9 economic development.

10 So I think that is a point that simply needs to be
11 emphasized. I'm not sure there's a good answer to that, I think
12 it's simply part of the perennial problem of how can we ensure
13 that the benefits of society are distributed to all of its
14 members on a fair basis.

15 There are many positive economic benefits to the
16 tribe. It's interesting looking at the subject of the economic
17 and social impacts because I'm used to trying to somehow balance
18 the -- generally the positive economic impact with the sometimes
19 negative social impacts or at least the alleged negative social
20 impact.

21 It's very difficult to do that on the reservation.
22 It's not simply because there's insufficient information, but
23 because the conditions are generally so bad that any improvement
24 at all, anything that is done, is generally a move upwards. And
25 that's certainly been the case with gambling. It's difficult to
26 find a reservation where looking at standard indices or whatever
27 you want to look at where that has actually had a negative
28 impact. It's almost uniformly positive.

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1 A number of factors are included, obviously, in the
2 degree to which the gambling operations are successful. And most
3 of them are uncontrollable such as the presence next to a major
4 metropolitan center. But assuming that is the case the success
5 of gambling operations on the reservation, to a large extent,
6 draw upon how many of the non-Indian surrounding population can
7 become clientele. Those operations which are confined to the
8 reservation typically don't do very well and a number have even
9 closed.

10 Now, as I said, the expectation for IGRA was that the
11 money would be used for funding tribal government operations and
12 other social services that the federal government could not or
13 chose not to fund sufficiently. And by and large the tribes have
14 used their gambling operation, the revenues from the gambling
15 operations, in line with that expectation.

16 For example health services are a high priority for
17 many tribes. The Mille Lacs, a band of the Ojibwes in Minnesota
18 and the Oneidas and the Gila River Indians, who a number of us
19 will be visiting tomorrow, have had that as a very high priority
20 on their list.

21 Some things as simple as one of the tribes in
22 California simply purchasing life and health insurance for their
23 members for the first time that's -- they had no access really to
24 health care before that. Other uses are fire fighting and police
25 facilities, roads, educational scholarships, plumbing in houses,
26 real basic stuff that I think most people take for granted. And
27 by and large, as I said, the tribes have been using the bulk of

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1 their resources because the need is so great to try to bring them
2 at least up to tolerable standards.

3 A few tribes, but not as many as had been hoped, are
4 also investing in economic operations outside of the -- out of
5 the gambling operations. This is sort of a -- this is done in the
6 expectation that the revenues from gambling are not reliable and
7 they may fade away in the future and I think that's probably a
8 very reasonable expectation to take.

9 And if this sudden influx of money that a number of
10 tribes are experiencing can be used to invest in long-term
11 economic development that's probably the best use for the income
12 over the long-term.

13 Some of the other uses that have been -- for the
14 money they have found are repurchasing some of the reservation
15 land that over the years has been alienated, sold off, what have
16 you. I know the Oneida's in Wisconsin, for example, that is a
17 very high priority on their list. I think that less than 40
18 percent, something like a third of the original reservation
19 remains. And a portion of the income after all these other needs
20 have been satisfied and after the economic investments have been
21 made has been going to repurchasing some of that land.

22 That in itself creates a number of problems for the
23 local areas in that it removes a lot of the tax base for the
24 surrounding communities. But that's a debate that has yet to be
25 satisfied to the satisfaction of both.

26 Perhaps the most important economic impacts after
27 this funding of tribal services is on employment. Traditionally,
28 as I said, very high employment rates on the reservations and as

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1 you might imagine long-term generational unemployment combined
2 often with a dependency on welfare produces a number of social
3 pathologies of its own. So simply being able to provide jobs
4 itself is a major social and economic benefit of gambling.

5 Native American gambling is estimated around the
6 country to employ about 40,000 individuals. A significant number
7 of them being non-Indian. In fact, the rates really vary from 90
8 percent non-Indian to less than 5 percent.

9 That can have a dramatic impact especially on the
10 smaller tribes. For example I've mentioned the Mille Lacs before
11 in Minnesota. They've had 60 percent unemployment in 1991 and
12 now it's zero. Eighty percent of the tribal employees in the
13 casino were previously unemployed. The Oneida's unemployment
14 rate dropped in the same period from 70 percent to less than 5
15 percent. In Minnesota there are 17 casinos, 37 percent of the
16 Native American employees now working the casinos formerly were
17 on welfare, 31 percent of the others were drawing unemployment
18 benefits.

19 And even in places that aren't necessarily fully
20 employing Native Americans in the casinos the -- if you look at
21 the county by county rates of welfare dependency and unemployment
22 benefits those drop fairly significantly as well. In Wisconsin,
23 again, in approximately about five years welfare roles in
24 counties with casinos dropped 26 percent -- sorry that's in three
25 years. And you can go case after case after case after case
26 where this has had a dramatic impact on the reservation.

27 In fact, that's such an important part of the pay off
28 of the casinos that a number of tribes that are operating casinos

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1 at a loss have chosen to keep them open simply to provide
2 employment for tribal members, there being no other source of
3 employment once the casinos would close.

4 There's also been a fairly significant impact off the
5 reservation, but again it's very difficult given the combination
6 of lack of information and also the lack, I have to say quite
7 bluntly, the lack of negative impact. To say that by and large
8 the impact off the reservation at least to the extent that it can
9 be measured has been positive.

10 The principal argument against this point of view is
11 the so called displacement affect debate. Where money used to
12 gamble on the reservation from outside the reservation is being
13 taken away from other areas. That's a fairly contentious area of
14 inquiry in the economic literature, but nevertheless it exists.

15 One study that has been done in New Mexico estimated
16 that the gambling operations there produced a net 400 million
17 dollar economic benefit to the tribes, but the New Mexico
18 taxation or revenue department estimated that a large amount,
19 although they didn't put a figure on it, comes from the
20 displacement effect on retail sales so on and so forth from off
21 the reservation. In essence a transfer of money from non-Indians
22 to Indians.

23 But other studies such as Minnesota has looked at the
24 communities within a 30 mile radius of non-urban Native American
25 casinos and found virtually no negative impact. The displacement
26 effect was sufficiently minimal because there had never been any
27 businesses off the reservation anyway to cannibalize so it was in
28 essence a situation in which the surrounding communities

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1 benefited, not as much as those on the reservation, but certainly
2 significantly.

3 One other thing on the non-reservation impacts. As I
4 said before a large percentage and often a majority of the
5 employment in the casinos is non-Indian. Again, in Minnesota
6 there are eleven gambling tribes, employing 12,000 people, 75
7 percent of whom are not Indian. In Oregon a much smaller market
8 it's 1700 jobs, but again three-quarters are filled by non-
9 Indians.

10 And certainly you can look and see the same pattern
11 in many other states. When we were in Foxwoods we were told the
12 Foxwoods opening countered pretty much exactly the employment
13 effects of the closure of the electric boat ship yard. Not the
14 closure, but the radical down sizing of the electric boat ship
15 yard in New London.

16 So in many areas the Indian casinos have become major
17 employers of the non-Indian communities.

18 CHAIRMAN JAMES: Doug, I'm going to ask you to move
19 towards summarization.

20 MR. SEAY: I will very quickly.

21 Some of the negative impacts have been alleged have
22 been for -- as with all casino gambling is crime and pathological
23 gambling. Very, very difficult to come to any conclusions here
24 simply because the information is not available.

25 There have been -- the most -- the state that's been
26 most closely looked at is Wisconsin. There have been two
27 separate studies one funded by the gaming tribes there one funded

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1 by a 501(c)3 state think tank. They came to absolutely opposite
2 conclusions about what the impact on crime has been.

3 I think that Bill Thompson, who is here today, was
4 one of the authors of the one that found a significant increase
5 at least in burglary and perhaps in larceny in the counties with
6 Indian casinos. The other study found no increase in crime
7 whatsoever, in fact, found a decrease due to the positive impacts
8 of employment.

9 On compulsive gambling there have been very few
10 studies that have been done. They come out with rates that are,
11 frankly, very difficult to believe, but if are true are
12 significantly out of line with any other study that has been done
13 in the general population. Finding rates, for example, of
14 compulsive gamblers of upwards of 29 percent of the adult
15 population on the reservation.

16 I find that very difficult to believe. But what is
17 true is there are very high rates of alcoholism and drug use on
18 the reservations. And there is a clear correlation according to
19 Dr. Schaffer, Howard Schaffer of Harvard, between compulsive
20 gambling and other addictive behaviors.

21 The last thing I will say is that it's interesting
22 when you look at even the opponents -- not the opponents there
23 are strong advocates of Indian gambling and then there are people
24 who are opposed for one reason or another to various aspects of
25 that. But even those who find there to be really no net negative
26 impact from Indian gambling on the general economy, as one of
27 these studies in Wisconsin did, come to the conclusion that even
28 though it was a net wash for the state itself the state should

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1 continue to permit it, recognizing it was a transfer payment of
2 money from non-Indian areas to the Indian areas, simply because
3 the needs on the reservations were so great. No other mechanism
4 had been found that could equal this. And so even if it could
5 not be justified in terms of economic benefit for the state.
6 Even if there may be modest net social negative impacts
7 elsewhere, the need on the reservations was sufficiently great
8 that they were prepared to recommend a continuation of Indian
9 gambling in the country.

10 Thank you, I apologize for droning on and on.

11 CHAIRMAN JAMES: No, thank you. Commissioner
12 Wilhelm.

13 COMMISSIONER WILHELM: I realize you want to move
14 along quickly so I'll try to be very brief with this. Doug,
15 you've done your usual superb job with respect to an overview and
16 it's very helpful. On the employment issues, however, without
17 belaboring this I think I would -- I think there's a couple of
18 things that ought to be either looked at again or put in some
19 context.

20 Did I understand you to say that there's an estimated
21 40,000 jobs?

22 MR. SEAY: Yes.

23 COMMISSIONER WILHELM: I think that's quite low.

24 MR. SEAY: I agree.

25 COMMISSIONER WILHELM: But these are the figures --

26 MR. SEAY: Let me just again underline every figure
27 I've used in here I have very little confidence in it.

28 COMMISSIONER WILHELM: Yeah.

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1 MR. SEAY: Simply because it comes from estimates
2 rather than actual reported (figures).

3 COMMISSIONER WILHELM: There's 15,000 in California
4 and at least 21,000 in Connecticut so that's 36 already. So I
5 think it's way higher which is important for us to know.

6 Secondly, I take your meaning, I think, when you
7 talked about the fact that the Foxwoods jobs more or less
8 numerically replaced the electric boat ship yard jobs. However,
9 it's worth noting that the wage benefit package is probably a
10 third, 40 percent, 50 percent tops. So it replaced it in one
11 sense, but in another.

12 MR. SEAY: I agree with you on that, that's actually
13 true and I did not mean to imply that the people who lost a job
14 at electric boat got one at Foxwoods. I simply meant that the
15 importance, the regional importance, of these casinos can be
16 quite significant.

17 COMMISSIONER WILHELM: Absolutely, thank you.

18 CHAIRMAN JAMES: Thank you. Any other questions or
19 comments before we move onto our panelists? Doug, once again
20 thank you very much for that report.

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