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4                   CHAIRPERSON JAMES:                   I'd like to  
5 open it up now for questions from our Commissioners as  
6 well as interaction among our panelists and, please,  
7 feel free to engage in that kind of dialogue and  
8 debate.

9                   The Chair recognizes Commissioner Wilhelm.

10                  COMMISSIONER WILHELM: I have one for each.

11 Do you want me to--

12                  CHAIRPERSON JAMES: Just jump right in.

13                  COMMISSIONER WILHELM: First, I have a  
14 question for Mr. DePhillippo, and I want to preface it  
15 with an observation, and that is although I share some  
16 of the concerns that have been expressed by others  
17 about both aggressive lottery advertising and also some  
18 of the newer instant forms of lottery activity.

19                  Nevertheless, I do think it's worth  
20 pointing out that for those who look upon participants  
21 in the lottery as somehow, you know, poor fools who  
22 wander around doing irrational and stupid things, it is  
23 interesting to note that the state that has the highest  
24 by, as I understand it, by a significant margin, has

1 the highest lottery payout, also has the highest  
2 lottery participation, which, I think, ought not be  
3 lost sight of. Perhaps some of the lottery  
4 participants are not quite as irrational as some people  
5 say.

6           It was observed yesterday, Mr. DePhillippo,  
7 with regard to the Massachusetts lottery, that the  
8 legislature, or it was implied, that the legislature  
9 dramatically reduced or nearly eliminated the  
10 advertising budget for the Massachusetts lottery, and I  
11 have a twofold question related to that. One, is that  
12 true? And two, if it is true, what has been the impact  
13 on lottery sales of that change if it happened in  
14 advertising budget?

15           MR. DePHILLIPPO: Well, yes. Over the  
16 years from 1993 to 1994, right before I became  
17 director, the budget was cut from a high of about \$12  
18 or \$14 million down to \$400,000. The impact has not  
19 been seen on the top line yet. This year, we will  
20 experience our first sales decline ever and if it  
21 wasn't for some of the initiatives we've done from an  
22 expense point of view, it would be a year or first year  
23 of a net state revenue decline as well.

1           The gains that you used to get advertised  
2 and again, I was not the director then, this is what  
3 I've read and seen, were what we call the on-line  
4 games, which are the lotto type games and the daily  
5 numbers games and those all have experienced severe  
6 declines in the past three or four years. They've  
7 stabilized finally, but through the years that I've  
8 been here, they've had significant declines.

9           The reason that the state has not shown a  
10 sales decline is, one, at the same time the legislature  
11 cut advertising, they introduced Keno. So, that offset  
12 a lot of that drop and that's probably the major reason  
13 plus there was an increase of the price points of our  
14 scratch tickets. Those were the two things that helped  
15 to offset any of the drop.

16           COMMISSIONER WILHELM: All right. And the  
17 second question is for Dr. Brenner, right? You are, I  
18 really appreciated your testimony, you are living proof  
19 of the proposition that is often presented, that we  
20 Americans lack a sense of the long reach of history.  
21 And I was interested in some of your comments, which I  
22 think go to show that history teaches that those who  
23 talk about prohibition and gambling are probably  
24 barking up the wrong tree.

1           But I was particularly interested in your  
2 observation that, if I heard you right, that over time  
3 and in different situations the rate of gambling  
4 addiction is both small and seems, if I heard you  
5 right, relatively constant. Could you expand on that a  
6 little bit?

7           MR. BRENNER: Well, let me answer first the  
8 question that you raised to Mr. DePhillippo, then I'll  
9 come back to addiction. I think that all the, because  
10 that was an important point and I didn't get to it in  
11 my presentation. The answer to the question when the  
12 government is in the business of gambling is just how  
13 much this industry, how large this industry should be.  
14 When the sector is competitive, then it must be  
15 financed somehow. So if you financed already 10 or 20  
16 casinos or 100 casinos and the next one wants to open,  
17 it must go and raise money and if it cannot because the  
18 financial backers feel that this, there are no more  
19 returns to be expected there, then you know that that  
20 industry shouldn't expand anymore.

21           The problem is when the government is in  
22 the business that you don't have this financial market  
23 check on just how large, how well the lotteries are  
24 managed, how many businesses you should have in that

1 industry? So, I think the question that you raised is  
2 a very important one that today it's really not clear  
3 because it is not a competitive business, just maybe  
4 the  
5 government overreaches it, this source taxation. Maybe  
6 it spends too much on advertising. Maybe it is not  
7 efficiently managed. We just don't know.

8 I would say that one of things that came  
9 out in all of the countries, it was not clear just how  
10 large this industry would have been under competitive  
11 circumstances, but that's in response to your first  
12 question.

13 To the second about addiction, yes, all the  
14 results whether, you know, there have been commissions  
15 on gambling going back to the 19th century in England,  
16 and although all the town people spoke about addiction,  
17 it seemed an insignificant number. First of all, yes.  
18 You have a lot of what I would call patterns of  
19 addiction, who get money from various sources or want  
20 to extract them, who exaggerate the claims and they say  
21 that six percent of the population is addicted and  
22 things like that. You just don't find those numbers  
23 anywhere.

1                   For example, I know what little research  
2 that I have looked at was one done in Connecticut, if I  
3 recall, and they found altogether that 150 people  
4 register in this treatment for, I don't know what it's  
5 called, Gambling Anonymous, it's similar to Alcoholics  
6 Anonymous, all the other research that I am familiar  
7 with came up with similar numbers.

8                   Now, you have a problem with how you define  
9 exactly addiction. I would say the only way you can  
10 define it is when either the guy goes bankrupt or ends  
11 up in prison or ends up in treatment, otherwise if he  
12 doesn't get there, then it means that he's self-  
13 corrected in one way or another.

14                   So, the research I remember, I don't  
15 remember the author who looked at prison population,  
16 what percentage of the prison population arrived there  
17 because of gambling that led to crime and something  
18 like that, and it found at the time that it was about  
19 two percent of the prison population. But even that two  
20 percent, they found that it was really just one aspect  
21 of that dissolute life.

22                   Now, I would say the reason that addiction  
23 has such powerful affect in discussion about this  
24 industry is because of the media. Because if I value

1 that 99 percent of the people are petty gamblers, very  
2 basically spend, net, about \$10 to \$20 on gambling, all  
3 the people go from New York to Atlantic City spend a  
4 day and have cheap food, well, that's not an  
5 interesting story and no newspaper will put it on the  
6 front pages, it's boring.

7           But the sad effect, what is interesting is  
8 the exceptional cases when you have somebody who, is  
9 running around that is addicted to gambling, abandons  
10 their wife, steals, then commits suicide, well, that's  
11 a fascinating story and you can make a movie out of it.

12           Just to give you an historical example,  
13 many people refer to Dostoyevsky's *The Gambler*, it's  
14 one of those books in the literature that is frequently  
15 quoted, it's really about a gambler who gets addicted  
16 and kills for money. What is interesting is that  
17 Dostoyevsky himself was a gambler and he went bankrupt.  
18 But he wrote *The Gambler* after he went bankrupt. He  
19 took himself, disciplined himself, never gambled again.

20           In fact, he wrote most of his books when he  
21 was bankrupt to save himself from bankruptcy, including  
22 *The Gambler*. So, he received two types of reactions.  
23 In real life he went toward the entrepreneurial thing.  
24 In his literature, he went toward the criminal

1 direction. But I think these are the types of things  
2 that the movies, the books, the headlines, that somehow  
3 have exaggerated the fact why discussion on addiction  
4 is so important.

5           But the findings are that it's minimal,  
6 even, let me have just one more saying, there is only  
7 one research that really looked at whether of those who  
8 treated themselves, how many relapsed and they found  
9 that, in fact, 65 percent of those who at one point or  
10 another were addicted, they later killed themselves.

11           So, I would say that there is just a non  
12 issue in the following sense, that you cannot judge  
13 just like you don't judge the drinking industry by  
14 looking at the small percentage of alcoholics, and you  
15 don't look at driving because of a few people who drive  
16 at 200 kilometers an hour. It's the same thing about  
17 gambling.

18           That said, you can solve the problem of  
19 addiction, of problem gambling either by allocating a  
20 certain percentage of the tax revenues to treat them or  
21 if somebody is known to be an addict, then you make the  
22 casino or the gambling establishment liable for serving  
23 him just like alcohol, and you have this type of  
24 arrangement. So both solutions could work.

1                   COMMISSIONER WILHELM:     Madam Chair, I'll  
2 pass my third question to give other Commissioners  
3 time.

4                   CHAIRPERSON JAMES:     Certainly.

5                   Dr. Dobson.

6                   COMMISSIONER DOBSON:     I thank the three  
7 panel members for your excellent presentations.

8                   Mr. Karcher, in your book on lotteries, I  
9 think, and correct me if I'm wrong, I think you  
10 indicated that the state or rather the National  
11 Association of State Lotteries has an advertising code  
12 of ethics, but that it is largely ignored. Do you have  
13 any hypotheses as to why it's not applicable?

14                  MR. KARCHER:     Let me answer that in just a  
15 moment.     First, let me do something else by way of  
16 preface of the answer.     I want to comment on my  
17 colleague, Mr. DePhillippo's, testimony and I want to  
18 say also in my book, you notice there are three  
19 recommendations.     Among all of the recommendations  
20 there are three that Massachusetts has implemented and  
21 I want to compliment them for that.     I think the fact  
22 that they share the revenue, and there is a formula so  
23 that from where the money comes, it is sent back on a  
24 formulitic basis.     I think every state should do that.

1 If you're going to exploit a certain area, certainly  
2 you should have the money, and I think send back in  
3 some ratio and I think that's very good.

4 I think the second thing is that they do  
5 prove the point that the higher the payouts are, the  
6 more people play and you get an upscale gambler to play  
7 if you have more payouts.

8 Another recommendation, the third one is  
9 that they do enforce, they have a program to enforce  
10 teenage gambling. In my state, I've never seen a  
11 prosecution of a lottery agent for selling to someone  
12 under age. Yet, if I go in and try to buy a newspaper  
13 at a place that sells lottery tickets in the morning,  
14 the kids waiting for the bus to go to school are there  
15 tying up the counter because they're buying lottery  
16 tickets and nobody enforces it. The same thing is true  
17 about kids who are inebriated. Nobody enforces it.  
18 Yet, if you go into a casino in New Jersey and they let  
19 you gamble while you are inebriated, that you have  
20 fines in the hundreds of thousands of dollars, yet  
21 nobody every enforces it in the lottery.

22 Now, let me give you an advertisement that  
23 was on the air this year in New Jersey, to give you an  
24 example of what I consider to be extraordinarily tacky.

1 What was prevalent when the book was written was and  
2 what I never understood is why we allowed taxpayers'  
3 money, if we spend billions and billions and billions  
4 of dollars on education to inculcate our youth with a  
5 work ethic, then we had this whole range, this panoply  
6 of advertisement that made work seem menial. You know,  
7 that all you had to do was be lucky and you could walk  
8 away from your job.

9           Show me any advertising, ever, for the  
10 lottery where a doctor or a lawyer or an engineer was  
11 portrayed, it was always someone in a menial position  
12 who then disparaged that position once they won.  
13 That's wrong. How can we have this kind of conflict in  
14 our society where we try so hard, spend so much money  
15 inculcating the work ethic and then bash it with  
16 advertisement.

17           Let me just conclude by telling you the one  
18 we had this year in New Jersey. It started with a  
19 woman receiving a call from, apparently, her spouse  
20 saying that he had been kidnapped and was being held  
21 for ransom, a million dollars. How am I going to, she  
22 says: "How am I going to get that?" He says: "Play the  
23 lottery." She then goes out and plays the lottery and  
24 wins. She is then seen checking into a hotel in Europe

1 or Mexico and being asked whether she has any baggage  
2 and she says, "No. I've gotten rid of him."

3 (Laughter)

4 MR. KARCHER: Now, that's just wrong. I  
5 mean, what's the message there? That murder is all  
6 right. That kidnapping is all right. How can we have  
7 this kind of conflict? And that's my big gripe, it's  
8 that we have this mixed message continually being sent.  
9 We have this bashing of the work ethic which has been  
10 most prevalent in lottery advertisement. Then  
11 secondly, we have this new kind of advertisement which  
12 I, you know, is just horrible, just horrific what that  
13 message was that was being sent.

14 COMMISSIONER DOBSON: So, the code of  
15 ethics is--

16 MR. KARCHER: Is honored in the breach.

17 MR. BRENNER: Can I answer, may I answer on  
18 this point?

19 CHAIRPERSON JAMES: Why don't we do this.  
20 Let Dr. Dobson finish his line of questioning. Let Dr.  
21 Brenner respond, and then I'll come down to you.

22 COMMISSIONER DOBSON: This should be a  
23 quick one. I just want to check my math, Mr.

1 DePhillippo. I had hoped to do better than Chairman  
2 James, but--

3 CHAIRPERSON JAMES: I went to Sam. We're  
4 on a first name basis now.

5 (Laughter)

6 CHAIRPERSON JAMES: I'm not sure if I heard  
7 you right or if I've got my math right, but 19 percent,  
8 we're talking about the local sales commission, in 19  
9 percent of the one dollar out of three--

10 MR. DePHILLIPPO: Which translates to  
11 approximately six, six--

12 COMMISSIONER DOBSON: Six percent. All  
13 right, six percent commission. If the average income  
14 for an outlet is \$23,000, 23,000 is six percent of  
15 \$383,000 per year, so the average outlet sells \$383,000  
16 worth of lottery tickets per year.

17 MR. DePHILLIPPO: Right. Once again, I  
18 want to tell you when you have a 70 percent prize  
19 payout, you create an incredible amount of churn. So,  
20 what happens is, someone walks into a convenient store  
21 with \$10. He may buy five \$2 scratch games and win \$6.  
22 He could take the \$6 home or he could decide to buy \$6  
23 more. Now, it records as \$16 in sales. Then he wins  
24 \$8 and maybe he turns that in. That now comes in as

1 \$24 worth of sales. Okay? And maybe he wins two more  
2 and out of 26, that is recorded on our books as \$26  
3 worth of sales, but at a \$10 expenditure.

4 COMMISSIONER WILHELM: Does that, pardon me  
5 for interrupting, does that also lead to a skewing of  
6 the per capita gambling figure?

7 MR. DePHILLIPPO: Definitely. Here, in our  
8 state?

9 COMMISSIONER WILHELM: Yeah. The same  
10 churning.

11 MR. DePHILLIPPO: Absolutely. I mean, I  
12 think I try to make that clear that our, that our \$525  
13 is what is the gross sales, what people actually lose  
14 per average. It's about \$160. Now, when the Globe  
15 series came out and they kept talking about this  
16 community doing \$1,000 for every man, woman and child,  
17 the point I was trying to make is that the net spending  
18 was a lot different than that, a lot different in our  
19 state.

20 Now, some states who pay 50 percent have a  
21 different ratio. Some states, where the instant  
22 quantity is not as a big piece of the business as ours  
23 is, has a different ratio, but that's what our ratio  
24 is.

1                   CHAIRPERSON JAMES: Dr. Brenner.

2                   MR. BRENNER: I just want it resolved.  
3 With due respect and I have to disagree with what his  
4 view of what the advertising reflects and about the  
5 work ethic and so forth and here it is relates with  
6 some findings that I didn't have time to mention. When  
7 you look at who is playing the lotteries, you find  
8 that, yes, it is true that it is poorer people who play  
9 it.

10                  Now, poorer is not necessarily reflected.  
11 I know a lot of research that looked at, according to  
12 the incomes, it doesn't look like the poor, but that's  
13 not true. When you adjust to the age and number of  
14 children, somebody who has \$30,000 when he is 20, he  
15 may be relatively rich. If you are 50 or 55 and you  
16 have still \$30,000, you are relatively poor and what  
17 you find is that it is in general the older, the older  
18 people with small children who play.

19                  However, there is, what you find is that  
20 when this obviously, then the winners are these same  
21 people and there is, I look then, at the time, how did  
22 this winner spend the money and what you find is, yes,  
23 obviously when you are 55 and you were a janitor all  
24 your life, what do you want when you've won suddenly \$2

1 million. Obviously, you would retire from work, but  
2 that's not, it doesn't mean that somehow that is a  
3 contradiction with the work ethic.

4           What you find is that these people, with  
5 very few exceptions, they allocate then the winnings to  
6 the education of their children, they spend on homes  
7 and they spend on vacations. That's one.

8           The second, obviously, if these are the  
9 players of the lotteries, it is the relatively poor and  
10 the relatively old and with many children, then you  
11 will not advertise lotteries to physicians and to the  
12 rich because they are not playing. You will advertise  
13 to the group that is playing to remind them of probably  
14 their only option, at the age of 50, of ever getting  
15 rich. I mean, that's what lotteries, infact, represent  
16 for them, chance of getting rich when in the labor  
17 markets they didn't do it and they have no hope of  
18 doing it.

19           COMMISSIONER LEONE: Excuse me.

20           MR. BRENNER: Yes.

21           COMMISSIONER LEONE: I don't understand how  
22 studying millions winners tells us anything since the  
23 numbers involved are trivial.

24           MR. BRENNER: No. They aren't--

1                   COMMISSIONER LEONE:    I mean, if you want,  
2 they're trivial.

3                   MR. BRENNER:    No, they are not.    Well,  
4 first of all there are two -- I shall answer you  
5 exactly.    I don't remember the numbers.    You can find  
6 it here how many over the years you can look at.    First  
7 of all--

8                   COMMISSIONER LEONE:    I mean, that's what  
9 the media does.    That's what you were criticizing here,  
10 the people who make a million dollars, not the million  
11 people who lost a dollar.

12                  MR. BRENNER:    No.    No.    That's no, then  
13 maybe I was misunderstood.    There are, first of all,  
14 you can look at all the players, both in the U.S., I  
15 have looked in Canada, around the world, you do find  
16 that the players are relatively older and with small  
17 children.    You find that.    So, obviously, if the game  
18 is not rigged, then the winners will be a  
19 representative sample of the population who is playing.  
20 And that's exactly what you find, and at the time, that  
21 was ten years ago, so gambling was not all prevailing  
22 as it is now, I don't remember how many hundreds were  
23 in the same.    So in the sample you find the same thing,

1 it is relatively old, with small children. That's what  
2 I mentioned.

3 COMMISSIONER LEONE: I'll ask you a  
4 different question. The panel is to talk about who  
5 wins and who loses.

6 MR. BRENNER: That's true.

7 COMMISSIONER LEONE: I had hoped we might  
8 get at the redistributive aspects of this form of  
9 taxation in the lottery.

10 MR. BRENNER: Okay.

11 COMMISSIONER LEONE: All right. It's a  
12 very high tax. People get very excited about sales  
13 taxes and income taxes which are not nearly as high as  
14 this tax. It is an attractive activity to people  
15 obviously or otherwise you wouldn't be able to impose a  
16 tax of this magnitude although we sweeten it by saying  
17 even though it's a little naughty, we're going to give  
18 the money to little old ladies or to schools and so  
19 it's not so bad, but it is a very high tax and it has  
20 re-distributive aspects.

21 Alan Karcher, who comes from a state where  
22 politics is softball, New Jersey, where he's a great  
23 hero to a great many people because during his years in  
24 the legislature and as speaker, he was plain spoken

1 about these kinds of tax issues, issues which are  
2 almost never discussed honestly. And the lottery, by  
3 any reasonable standard, is a regressive tax, and  
4 therefore, when you talk about who wins and who loses,  
5 we might get at some of those issues of regressivity.  
6 And since, let's stipulate that Alan is right and it's  
7 here to stay, given it's regressive nature, given the  
8 fact that people apparently want to do it anyway and  
9 are willing to pay this very high tax in order to  
10 engage in this activity legally, then what might we do  
11 to the redistribution and other things in order to  
12 affect who wins and loses?

13 I'm not, by the way, somebody who is  
14 delighted to hear what lotteries are spending only on  
15 compulsive gamblers. I mean, I think that's nice, but  
16 that's like Phillip Morris spending money trading on  
17 colleges, that wouldn't change my opinion of Phillip  
18 Morris. I mean, I think they ought to do it. In this  
19 case, who wins and who loses could be affected perhaps,  
20 by how you spend the money, as well as how you  
21 structure the game and how you advertise it. Now,  
22 Alan's book gets at some of those issues. I would like  
23 to start with Mr. DePhillippo, if I can, and ask--

1                   CHAIRPERSON JAMES: I'm going to allow you  
2 to do that, but the Chair does recognize that I had  
3 promised Mr. McCarthy to go next so as soon as you're  
4 done--

5                   COMMISSIONER LEONE: I'm following up on  
6 this question--

7                   CHAIRPERSON JAMES: That's fine.

8                   COMMISSIONER LEONE: --and I really wonder  
9 how you address that in Massachusetts. How you address  
10 the redistribution issue?

11                  MR. DePHILLIPPO: By the formula that was  
12 just spoken about.

13                  COMMISSIONER LEONE: So, geographically?

14                  MR. DePHILLIPPO: Well, it's geographic and  
15 it's also based on property values. So, those markets  
16 that have a high density of people in low property  
17 values receive even more than what they spend. There's  
18 a town in Massachusetts called Waltham, which is a very  
19 middle class and actually right now is one of the  
20 hottest booming towns, known for it's great restaurants  
21 and real estate development in the last two or three  
22 years, that is among the top two or three towns per  
23 capita in lottery play. If you take another town like  
24 New Bedford, which is probably one or two in per

1 capita, New Bedford will get a lot more money back than  
2 Waltham will because property values are less in New  
3 Bedford than they are in Waltham, even though they both  
4 play about the same and even though they both have  
5 about the same density.

6 COMMISSIONER LEONE: Mr. Brenner?

7 MR. BRENNER: I think I answered your  
8 question. Maybe I wasn't very clear about it when I  
9 said at the very beginning that, in fact, the way to  
10 look at lotteries is that the revenues go into the  
11 general funds and that the government really allocates  
12 it in that general fund. So, what I implied by it, is  
13 that there was no reason to look differently at just  
14 how these revenues are assigned because the evidence is  
15 that the government looks at the whole--

16 COMMISSIONER LEONE: The point you're  
17 making is the money is fungible and even though--

18 MR. BRENNER: That's true.

19 COMMISSIONER LEONE: --it may seem to be  
20 earmarked, in fact, something else--

21 MR. BRENNER: So, that's why I said that  
22 the regressivity is decided at that level.

23 COMMISSIONER LEONE: Yes.

24 MR. BRENNER: Maybe I wasn't clear.

1                   CHAIRPERSON JAMES:     One of the things  
2 that's baffling to me though is that I hear on one hand  
3 that the money is fungible and it's not earmarked and  
4 it goes into the general fund, and then I see a chart  
5 that says this is what the states do with the money.  
6 The states use it specifically for education. It's  
7 used specifically for, you know, social programs.  
8 Which is true?

9                   MR. DePHILLIPPO:   Well, it depends upon the  
10 state. In our state, it's cities and towns. In the  
11 state of Pennsylvania, it's senior citizens. In the  
12 state of Georgia it's education.

13                  CHAIRPERSON JAMES:   Now, I saw, I think,  
14 can we go back to the earlier chart that showed where  
15 the states put the money.

16                  MR. DePHILLIPPO:   I think there's about 13  
17 states that use general funds, maybe one--

18                  CHAIRPERSON JAMES:   As an example, I see on  
19 the chart primary and secondary education and I see  
20 Virginia there and I thought that in Virginia the money  
21 went into the general fund.

22                  MR. DePHILLIPPO:   Because as I said, in  
23 proportion of the general money, 12 states send it all

1 to the educational funds. The other six states that  
2 are listed here, I think they at least send a portion.

3 CHAIRPERSON JAMES: Well, I think we asked  
4 our research staff to, and some of the presenters  
5 yesterday to get us some of that data and that'll be  
6 helpful to look at because so often--

7 MR. DePHILLIPPO: We'd be happy to--

8 CHAIRPERSON JAMES: Yeah.

9 MR. DePHILLIPPO: We'll have that sheet for  
10 you.

11 CHAIRPERSON JAMES: And I think sometimes  
12 with language when we say it goes into the general fund  
13 and then when we say it's earmarked and it gets very  
14 confusing, it would be good to have some real clean  
15 data to look at to see what actually does happen with  
16 the money.

17 MR. BRENNER: Ms. James, I have the quote  
18 for you, from two directors of fiscal studies here in  
19 the state. Here it is, Stephen Gold, he was at the  
20 time, the director of fiscal studies for, in Denver and  
21 he said the following, that because of the gain from  
22 lotteries, educational programs lost equal amounts from  
23 the general appropriations.

1                   Then to the same effect, somebody called  
2 Bob Roy, who was director of the budget studies for the  
3 Senate Finance Committee in New York, he said the  
4 following, the primary debate in New York has been  
5 whether lottery funding becomes a supplementary source.  
6 The truth is that it is just one of the funding  
7 sources, but if we didn't have the lottery, taxes would  
8 have been increased by \$650. And you find that  
9 repeatedly money was fungible.

10                   CHAIRPERSON JAMES: I have one more  
11 question, but I'm going to reserve it until after Mr.  
12 McCarthy.

13                   COMMISSIONER MCCARTHY: Mr. Karcher, I  
14 wanted to thank you about your comment about how the  
15 advertising done by many state lotteries is so directly  
16 contradictory to the values we supposedly try to  
17 inculcate into our children in the school systems.  
18 That's exactly the reason why I oppose the lottery in  
19 California. When it was presented by Scientific Games,  
20 who funded putting it on the ballot as an initiative  
21 funded its campaign and then I think got the first  
22 contract to run it.

23                   The question I wanted to ask you is in your  
24 book. I only glanced at your book when we received it

1 a week ago, do you break down, you made a statement 85  
2 percent of every dollar gambled goes to government. Do  
3 you break that down in your book?

4 MR. KARCHER: No. It's based upon a study  
5 that was done, I believe, in New York, and if you just  
6 calculate it, and it's pretty easy to calculate the  
7 amount of take out, as they say or the amount kept.  
8 Then you have to add to that the amount of federal  
9 taxation that is imposed.

10 Then the truth of the matter is, yes, the  
11 money that is won, discretionary as Mr. Brenner,  
12 Professor Brenner said, is used for things like  
13 vacations, things for high luxury, high ticket items  
14 that usually carry a sales tax, et cetera, when you add  
15 that all in and you figure what is really left over  
16 with money in the pocket, it's very little. It's a  
17 small amount. If I understood Mr. DePhillippo earlier,  
18 he used, said there was 70 percent. Is that what the  
19 calculation is is that 70 percent out of every dollar--

20 MR. DePHILLIPPO: \$.74, yes.

21 COMMISSIONER MCCARTHY: -- so the number,  
22 it may be 75. It may be 85. Whatever it is, it's  
23 very, very high. It's an extraordinary number. When we  
24 express outrage over an income tax and we all say the

1 income tax, you know, is crushing when it hits 32  
2 percent and yet we don't blink when we have a tax here  
3 that we all can agree is at least 75 percent, out of  
4 every dollar gambled in lottery, 75 percent winds up in  
5 some government treasury.

6 COMMISSIONER MCCARTHY: Are any studies on  
7 that cited in your book?

8 MR. KARCHER: I believe they are, if I'm  
9 not mistaken. I didn't make the citation--

10 COMMISSIONER MCCARTHY: If you have the  
11 cites for any of those studies, I would appreciate it  
12 if you would share them with us.

13 MR. KARCHER: I certainly will.

14 COMMISSIONER MCCARTHY: We are looking at  
15 areas that we might want to research in state lotteries  
16 right now. The Chair has appointed three of us to the  
17 Research Subcommittee and we made a presentation to the  
18 full Commission yesterday and we're trying figure out  
19 which priority issues should be included in a national  
20 research project. It sounds like one we ought to be  
21 taking--

22 MR. KARCHER: I'll track that down for you.

23 COMMISSIONER MCCARTHY: I thank you.

1                   COMMISSIONER BIBLE:   Do you have the same  
2 tax effect for illegal gaming?

3                   MR. KARCHER:   Illegal gaming actually pays,  
4 let me suggest that, I wouldn't know this first hand--  
5 (Laughter)

6                   MR. KARCHER:   --but I'm told every major  
7 gaming site where there's enough employees to have a  
8 numbers, a meaningful numbers game played at a work  
9 site, it's preferable to a lottery because the payout  
10 is better. The payout is always constant in an illegal  
11 lottery and the illegals numbers game, the games that  
12 were played -- first of all, the illegal numbers game  
13 were never able to go into lotto because there was  
14 never enough sophistication so it's always just been a  
15 three digit game, the numbers business. And on job  
16 sites or in factories it is still played and the payout  
17 remains constant.

18                   Whereas, in, as I understand it, the three  
19 digit game is a function of how many people have that  
20 number so the payout can be as low as two or three  
21 hundred dollars. Is that correct? At least it is in  
22 New Jersey. In other words, if you played the numbers  
23 illegally you would get a \$500 payout no matter what,  
24 out of 999 numbers. If you had that number you would

1 get a \$500 payout, whereas you might run the risk in a  
2 legal lottery, a legal numbers game of being paid out  
3 only two hundred and some odd dollars or three hundred  
4 and some odd dollars. So, I'm told that some people  
5 still prefer to play the old fashioned game.

6 COMMISSIONER BIBLE: But would you still  
7 tend to have the same tax reporting requirements?  
8 You'd be subject to the same reporting requirements for  
9 income purposes?

10 MR. KARCHER: I have a feeling a lot of  
11 that money escapes taxation.

12 (Laughter)

13 MR. KARCHER: That's a distinct feeling I  
14 have about that.

15 CHAIRPERSON JAMES: Commissioner Wilhelm.

16 COMMISSIONER WILHELM: I just, I don't know  
17 if these are questions or comments, but first of all,  
18 Mr. Karcher, I found your book extremely useful as well  
19 as provocative and I really want to thank you for it.

20 MR. KARCHER: Thank you.

21 COMMISSIONER WILHELM: I am not, just  
22 speaking personally, a particular fan of lotteries.  
23 Primarily because I don't think that the jobs that  
24 lotteries produce are decent jobs, and I think the

1 crisis of America is decent jobs for people don't have  
2 a lot of formal education. Having said that--

3 MR. DePHILLIPPO: I think my 400 employees  
4 would disagree with you on that.

5 COMMISSIONER WILHELM: Yeah, but 400  
6 employees, with all due respect to them, for the amount  
7 of millions of dollars and billions of dollars  
8 involved, doesn't strike me as overwhelming. But I'm  
9 just expressing a personal view about that.

10 But having said that, it is clear, I think,  
11 that some version of lotteries are here to stay and at  
12 the risk of being overly simplistic, we had all these  
13 lotteries run for alleged public purposes earlier in  
14 the history of this country. Clearly, I can agree that  
15 the lottery that founded the Virginia colony was a  
16 great idea, and some people would disagree that a  
17 lottery that built buildings at Yale, Harvard,  
18 Princeton and Columbia was a great idea, but in any  
19 case, they had those kind of things.

20 And then we had this period of time, and I  
21 point this out to all you fans of government  
22 privatization, we had this period of time in American  
23 history where lotteries were run by private companies  
24 and they had to be done away with because they were so

1 crooked and corrupt. And then we had this period of  
2 time, particularly in Northeast and the upper Midwest  
3 where you had illegal numbers and then we had this  
4 period of time that began in the wildly erratic State  
5 of New Hampshire where the government runs the  
6 lotteries. So, there may be a reason the government  
7 runs lotteries in this country when you look at the  
8 history of those who ran them prior to the government,  
9 particularly the private companies.

10 But having said all of that, and I just  
11 make that historical point because of those of us who  
12 say, well, gee, government shouldn't be doing these  
13 things. I have a lot of trouble with the argument  
14 that, and I really appreciate your point of view on  
15 this Mr. Karcher, that the poor are being exploited by  
16 the lotteries.

17 You know, I've spent my entire adult life  
18 working with and representing working class and poor  
19 people, and it's my experience that working class and  
20 poor people are essentially like everyone else that  
21 I've met and that is to say individually capable of the  
22 utter, the greatest stupidity and folly, you know, from  
23 one individual to another just like the rest of us.  
24 But collectively, I believe that working people and

1 poor people are more or less like most other people in  
2 that they generally act in a rational manner most of  
3 the time as a group. And I think it's a very  
4 patronizing idea that somehow the lottery is this great  
5 hoax that poor people are too stupid to see out of.

6 I don't get that, the point was made here  
7 before that people in many life situations don't have a  
8 realistic opportunity to come upon \$1,000 or \$50,000  
9 let alone a million dollars, and so if they choose to  
10 spend a buck or two or five or ten on the off chance  
11 that they might get an economic windfall that they have  
12 no other possibility of getting, I don't see why  
13 necessarily somebody with a better income ought to be  
14 in a situation of saying, well, that's a bad thing.

15 The point was made in the book, Selling  
16 Hope that engaging in a lottery is also a form of  
17 social activity. I don't see why it's terrifically  
18 different from a group of people who buy lottery  
19 tickets to sit around the factory lunch room talking  
20 about who is going to win the number that day, than it  
21 is for another group of people to sit around a country  
22 club talking about who is going to lose their shirt on  
23 derivatives, which, I don't believe, are any greater  
24 form of safe investment probably than a lottery ticket.

1                   So, I don't want to disregard the  
2 redistributive issue that Richard raises because I  
3 think it's a very important issue. But I also want to  
4 caution all of us against somehow assuming that because  
5 many lottery tickets are sold to people of lesser means  
6 that somehow the rest of us are smart enough to realize  
7 that they must be really dumb. I don't believe  
8 collectively they're dumb at all. I think they are  
9 very rational decisions.

10                   I think the odds being disclosed a little  
11 more, as Richard was suggesting yesterday, makes a lot  
12 of sense and the same thing is probably true of the  
13 securities market, and I hope one of the things that we  
14 talk about in Chicago is, for example, whether people  
15 who lost their shirts, their retirement shirts in  
16 derivative investments that somebody else made for them  
17 knew what they were doing. So, I just, I worry about  
18 what I see as a patronizing notion slipping in here.

19                   And I don't know if you have any thoughts  
20 on that, Mr. Karcher.

21                   MR. KARCHER: I would not want to be  
22 accused of being patronizing. I think government has a  
23 role, though, in protecting us from certain things and  
24 protecting us occasionally from ourselves, protecting

1 us from tainted meat, for instance. The government  
2 has a role in doing this and I don't even think it's a  
3 fine line. I think it's a pretty bright line being  
4 patronizing and being protective in exercising what is  
5 truly a governmental function.

6 But you're right, this is the only chance  
7 some people have. This is the poor person's stock  
8 market, but they have a right to do it in a way where  
9 they are informed about what the odds are.

10 COMMISSIONER WILHELM: Yes, I agree.

11 MR. KARCHER: I have, and this is a true  
12 story, an absolutely true story. I had a little give  
13 and take with a person in a delicatessen within the  
14 last six months about the lottery and they told me, and  
15 I suggested to them that to pick six, the odds were 14  
16 million to one, and they looked at me in sort of  
17 bafflement and they said, no. It's even money. I  
18 said, even money. No, it's \$14 million to one. They  
19 said that it's 50-50, if I buy a ticket I have a  
20 chance, if I don't buy a ticket I don't get anything.

21 (Laughter)

22 MR. KARCHER: I think there is an  
23 opportunity and I think that as I started with, it's  
24 here to stay. We're not going to change human nature.

1 People like to bet. It is a system that also goes to  
2 the idea of distributive justice. You don't have to  
3 have an education. You don't have to have great  
4 parentage. You don't have to have anything. All you  
5 have to do is have a ticket and you have a chance and  
6 that's what I think people are attracted to it for.  
7 It's non-judgmental and the threshold is non-judgmental  
8 to have your chance.

9 But I think there is the opportunity for  
10 lotteries to be fair, to be better, to be less machine  
11 intensive and more labor intensive. I think we ought  
12 to put in a standard, as I say in my book, we've got to  
13 put in a standard where we reward people with  
14 franchises who agree to hire the handicapped, who  
15 agree, you know, to deal with people from welfare to  
16 work fare. Those people should be awarded and have a  
17 better chance of getting the franchise. And I think  
18 every state ought to do what Massachusetts did and have  
19 some kind of formula where, where the money comes from  
20 and the poorer areas get a better break and get more  
21 money back directly. That's what--

22 CHAIRPERSON JAMES: You certainly may.

23 MR. DePHILLIPPO: May I just add something  
24 that I don't understand and I've been told not, not

1 that I shouldn't be asking any questions or  
2 volunteering anything, but you all went to Foxwoods  
3 last night and whatever. If you look at the various  
4 amount of studies that have been done, they estimate  
5 anywhere from the low of \$400 million that's being  
6 spent by Massachusetts residents or a couple of hundred  
7 million dollars all the way up to \$500 or \$600 million  
8 is being spent by residents of their state for which  
9 the State of Massachusetts receives nothing.

10           So, I guess I don't understand the taxation  
11 issue of the Massachusetts state lottery, of why a  
12 lottery that generates \$725 million for the cities and  
13 towns in an activity that people are free to do in  
14 private industry and for the, really what are the  
15 social compact that we have in our state.

16           And the reason why it's so popular in our  
17 state, take away the prize payouts and everything else,  
18 is because that's exactly how they see it. They see it  
19 as a social contract. They get to play a game that  
20 they enjoy and in return for that, not as a form of  
21 taxation, but in return for that, they see the results  
22 back in their cities and towns. In different states,  
23 they see those results in their schools or they see it

1 in their senior citizens. So, I just wanted to make  
2 that comment.

3 COMMISSIONER MCCARTHY: I would only, and  
4 I'm not sure what the comparison is, there seems to be  
5 an implicit assumption that individual members of the  
6 Commission are endorsing or favorable about Foxwoods.

7 MR. DePHILLIPPO: No. Oh, no, not at all,  
8 but I think--

9 COMMISSIONER MCCARTHY: Well, do you mean  
10 because it happens in the private sector, why shouldn't  
11 it be able to happen in the public sector?

12 MR. DePHILLIPPO: I don't understand the 75  
13 percent or the 85 percent tax rate on lotteries.

14 CHAIRPERSON JAMES: I'm going to go to  
15 Commissioner Lanni and then Commissioner Bible.

16 COMMISSIONER LANNI: I'm not sure who I'm  
17 directing this question to, but yesterday it was  
18 mentioned by an individual that the creation of  
19 legalized lotteries in states has in effect done away  
20 with the illegal numbers system. That seemed to be to  
21 me a reasonably incredulous remark. Again, we from the  
22 west are not familiar with the numbers game, I think it  
23 is a product more of the cities in the east. Maybe  
24 someone could answer that. Are there statistics that

1 are available as to what it has done or not done  
2 relative to the illegal forms of gaming, specifically  
3 in this case, the numbers business?

4 MR. BRENNER: I don't have the details but,  
5 again, the general evidence in all the countries that  
6 have experience with, let's say, prohibitions of  
7 various forms of gambling is that the moment gambling  
8 was legalized then the illegal gambling disappeared.  
9 Now, no country moved very quickly from complete  
10 prohibition to complete legalization. No country has a  
11 completely open gambling section, but yes, the evidence  
12 is very clear that illegal types of gambling have  
13 disappeared, be it, within, be it France.

14 In France gambling was all the time legal and  
15 then during the French Revolution they outlawed it for  
16 three years. And they immediately went back because  
17 most people gambled illegally. So, yes, it disappears.  
18 Now, the longer the prohibition, what I found at the  
19 time then, and when gambling is not completely  
20 liberalized, then yes, you have remnants of illegal  
21 gambling continuing for a number of reasons.

22 First, if you don't allow numbers games or  
23 things like that, then, yes, you have the entrepreneurs  
24 offering that. At the time, I remember finding that

1 one of the reasons that the gambling sector was viewed  
2 with suspicion after periods of prohibition was that by  
3 definition when something is prohibited, then it's the  
4 criminal sector who is involved in it, and when you  
5 legalize it, obviously it's the criminal sector who  
6 gets in it. But the only reason is that they are the  
7 only ones who know the industry and the games and  
8 everything. So, it doesn't mean that later they do  
9 anything criminal, but somehow the reputation remains.

10 So, to your question, it depends on the  
11 extent of legalization how quickly and how much of the  
12 illegal part of the gambling industry disappears.

13 COMMISSIONER LANNI: One comment. There  
14 was a question raised by the panelists that it was  
15 amazing that when you have a tax it may be 84 percent  
16 or 85 percent, why someone would not object to that  
17 where they might object to a, what is it a 41, 45  
18 percent tax on the federal level right now. I think  
19 probably the difference, and I'm not one who has ever  
20 purchased a lottery ticket, I personally don't care for  
21 the odds. But I think the difference is, on April  
22 15th, I must submit a check to the federal government  
23 and in my case also California, but it's an option for  
24 me to walk into a convenience store and buy a lottery

1 ticket. So I think the optional factor, it seems  
2 logical to me, is why is this accepted more than the  
3 required side of life.

4 One last comment. I thought in reading  
5 your book, Alan, and having lived in New Jersey for two  
6 and a half years, I share Richard Leone's thoughts  
7 about you. My question had to do with the issue you  
8 raised as one of your first recommendations, and I do  
9 believe that there is a role for the federal government  
10 and state government, maybe not as all consuming as  
11 some people might believe, but I think there is a role.

12 And you suggested in your book, in the  
13 conclusions, that there be some separation between the  
14 operational and the regulatory aspects, which I think  
15 is quite commendable. Are there any instances where  
16 that is taking place in any of the 37 states and the  
17 District of Columbia and I guess the six provinces of  
18 Canada in which the lotteries exist?

19 MR. KARCHER: I can't answer that. I'm not  
20 aware of the time of separation but let me give you a  
21 paradigm. The paradigm is the Casino Control  
22 Commission, in New Jersey. We have an independently  
23 appointed body that is well paid, full-time, doing  
24 nothing else but regulating the casinos to see that

1 there is no underage betting, to see that there is no  
2 service to inebriates, to see that the game is on the  
3 up and up, and it's very nominal what New Jersey  
4 receives from the gross amount of handle on the casino  
5 gaming compared to what we get on the lottery.

6           The lottery, the problem is that decisions  
7 are made solely and exclusively on the dynamic of  
8 revenue need and that's why I also recommend that you  
9 never allow a state to project more revenue than what  
10 they collected in the year past because what happens is  
11 as soon as you have a shortfall, you are automatically,  
12 because the decisions are being made by a revenue  
13 driven management, the decisions are made to cut  
14 corners, the decision is made to over-saturate an area.  
15 The decision is made to engage in some more tacky  
16 advertising, and I didn't mention, but the advertising,  
17 we didn't touch.

18           The other thing I find so objectionable is  
19 that there is a spike in the amount of advertising that  
20 is done when we talk about what market we're aiming at.  
21 Every study shows that the last day of the month and  
22 the first three days of the new month are when the  
23 majority of the money is spent. Why? Because that's  
24 when the Social Security checks are received, when the

1 workers' compensation check is received, the disability  
2 check is received, the welfare check is received.

3 Now, that is calculated and that is  
4 sinister as far as I'm concerned where my government  
5 will make a decision to exploit advertising, is going  
6 to have the advertising done at that period to exploit  
7 that market. It's just wrong and so I think you need  
8 to have something that separates, as the Casino Control  
9 Commission separates--

10 COMMISSIONER LANNI: When, in effect you  
11 have the Division of Gaming Enforcement, which is the  
12 investigative side of the business, separate from the  
13 regulatory side, the Casino Control Commission.

14 MR. KARCHER: Absolutely. I should have  
15 mentioned, and in the lottery you have nothing.

16 COMMISSIONER BIBLE: But doesn't that  
17 problem really start with the legislature when the  
18 money committee plugs in a revenue item to be generated  
19 by the lottery?

20 MR. KARCHER: Absolutely. No one to blame  
21 but the legislature.

22 CHAIRPERSON JAMES: As a point of  
23 information, I tried to find a state budget director

1 who would come and be a part of this panel to talk  
2 about just this very subject.

3 MR. KARCHER: You have a Commissioner here  
4 who--

5 COMMISSIONER BIBLE: I'd be happy to talk  
6 to you about how it works. You can see the charts  
7 here, and I know how it works, and as a budget director  
8 I know what you do.

9 CHAIRPERSON JAMES: Well, not quite from  
10 that perspective, although I do appreciate it, but what  
11 was most interesting to me would be to discuss and go  
12 into some detail on the pressure that a current state  
13 budget director would feel, operating in an environment  
14 where there is a lottery, and the implications of what  
15 that means for balancing the state budget.

16 COMMISSIONER BIBLE: Well, they're going to  
17 try and maximize the potential. A lot of the times the  
18 legislative money committees do, I think we heard  
19 today, they'll plug in a number to be generated on the  
20 revenue side and they'll cut the advertising to save on  
21 the expenditure side of the budget.

22 COMMISSIONER LEONE: But I think Alan and I  
23 could talk about situations where there was a fairly  
24 explicit connection between a forecasted budget

1 shortfall and the introduction of new game or games  
2 and, indeed, in one case, I'll leave the names out to  
3 protect the guilty, I was not in that administration.  
4 I was part of it, but the governor was and is a good  
5 friend of mine who personally is opposed to the  
6 lottery, and thinks it's a bad way to raise money. But  
7 they introduced a number of new games to deal with,  
8 even the last year of his term, to deal with a series  
9 of shortfalls where Alan was active in the legislature  
10 during that period.

11           Without giving too much away and, you know,  
12 look, when you're actually doing budgets, as Bill  
13 knows, I always say that's what Dylan Thomas meant when  
14 he wrote, "I'm for anything that gets you through the  
15 night", trying to deal with budget shortfalls, and it  
16 often is during the middle of the night and you're  
17 trying to put together a package and somebody walks in  
18 and says, here's this or here's that and the lottery is  
19 sort of free money.

20           I mean, the lottery is different from  
21 raising the sales tax. A new game is nothing like  
22 raising the sales tax or changing the rates of the  
23 income tax where there's tremendous tension in the  
24 system and you're going to get a lot of responses.

1 This is quite the contrary. You go out the next day  
2 and excitedly announce there's a new opportunity for  
3 new people to play. Imagine going out and saying  
4 there's a new tax.

5 I suppose I, actually I hesitate, I've  
6 always hesitated to through this out in public because  
7 I think it might be adopted, in the NBA they have a  
8 lottery for who gets the top picks in the draft and the  
9 worse you do as a team the more chances you get in the  
10 lottery. Right? The bottom teams get more, they're on  
11 more slips of paper essentially than the top teams and  
12 the very top teams don't get in the lottery.

13 Well, I've always imagined a big drum which  
14 is filled with state income tax returns. You take out  
15 the returns from the people who make a lot of income  
16 and you put in the other returns and you give extra  
17 chances to the people and the furthest down they go so  
18 the poorest people have the most chance to win and  
19 every week you roll the drum and you pick an income tax  
20 winner who wins a big reward. Maybe that's, and you  
21 substitute that for the lottery so you raise money  
22 progressively but you guild the lily or you sweeten it  
23 by this kind of game. I wouldn't be surprised in this

1 country to see that happen down the road, as people try  
2 to explain all this.

3           Now, obviously, there's no interaction in  
4 that. I guess you'd have to include a number on the  
5 income tax form, but technically, the way we do it is,  
6 of course, just the opposite of that and it's one of  
7 the reasons it's --. But I'm, look, there's no doubt  
8 about its popularity. If you came up with any other  
9 scheme that a government was going to come forward with  
10 and you said to people, now we're going to put a tax of  
11 75 or 85 percent on this, it would be dead on arrival,  
12 but obviously people like the lottery.

13           CHAIRPERSON JAMES: Let me be clear. My  
14 point is that the only person that you could get to  
15 admit that is a former budget director and not a  
16 current one.

17           COMMISSIONER BIBLE: I have a totally  
18 unrelated question. This would be for Mr. DePhillippo.

19           Have you considered or are you considering  
20 any internet applications for the Massachusetts lottery  
21 or are any of your colleagues considering it and what  
22 affect, if any, do you think there will be for Internet  
23 lotteries that are being opened? I know there's a

1 tribal lottery that's available, there's some out of  
2 the Caribbean.

3 MR. DePHILLIPPO: We have done nothing with  
4 the Internet except to have an information page as to  
5 what phone numbers to call and what the winning numbers  
6 were the day before or if you want to have a history of  
7 it or, so ours, we have a site, as most states do, but  
8 they're all informational sites. There is no betting  
9 nor do I see that happening ever in our state.

10 COMMISSIONER BIBLE: Are any of your  
11 colleagues exploring that option, if you know?

12 MR. DePHILLIPPO: Not that I'm aware of. I  
13 can't speak for them all, perhaps Rebecca Paul can when  
14 she's here this afternoon, but I think to the person,  
15 they're all against them.

16 COMMISSIONER BIBLE: And how about the  
17 competition, the affect of having the lotteries exposed  
18 from other jurisdictions within the Commonwealth  
19 through the Internet?

20 MR. DePHILLIPPO: I think it's an issue of  
21 concern.

22 COMMISSIONER BIBLE: Do you have any ideas  
23 to sales affect or anything of that nature?

24 MR. DePHILLIPPO: No.

1                   CHAIRPERSON JAMES: Sam, I'm interested in  
2 your three strikes and you're out program here in  
3 Massachusetts. Can you give us some idea of the  
4 success of that and how many do you get at the first  
5 strike, second strike and has anyone ever lost a  
6 license?

7                   MR. DePHILLIPPO: Well, we have, I may be  
8 giving away trade secrets here, in terms of what our  
9 plans are, okay, but I will tell you that we have been  
10 to a number of first time offenders, okay, and let me  
11 give you a range of what those figures were. The first  
12 time that this was done in conjunction with the  
13 Attorney General who spoke about it yesterday, it was  
14 extremely high rate in the 50, 60, 70 percent rate.  
15 The first time that we did it on our own. And then  
16 after that, in conjunction with that sting, we made the  
17 announcement that three strikes and you're out.

18                   Then the first qualification came when we  
19 actually did it, and I think the press helped a little  
20 bit and we have about a 40 percent violation. Now, we  
21 have to look from where we started, okay, which, that  
22 was quite a drop. We, the last one we just did on  
23 February's qualification was about 23 percent. The

1 second time offenders, there was a dramatic drop, a  
2 dramatic drop.

3 Now, we are, we have created a little bit  
4 of controversy because we are rigid. We are absolutely  
5 rigid. We're non-negotiable so that, there was a store  
6 owner who had to leave town and she asked a friend to  
7 watch the store for her for that day and I guess the  
8 friend, though it's posted on the terminals and that's  
9 our basis, sold it to an underage person and, you know,  
10 and we shut them down for two days and she came in and  
11 explained, you know, look, this person never sold a  
12 lottery ticket before and didn't know the rules and,  
13 you know --? But we're pretty rigid about it, and--

14 CHAIRPERSON JAMES: How many have actually  
15 lost their licenses?

16 MR. DePHILLIPPO: Well, we will be doing,  
17 and I won't be telling you exactly when, but we will in  
18 the next round, next couple of rounds, going back to  
19 second offenders.

20 CHAIRPERSON JAMES: Has anyone ever lost  
21 their license?

22 MR. DePHILLIPPO: No, because this is our  
23 fourth round sting. We're not going to announce when  
24 or who or what, but we will be going around to second

1 offenders. But the key is, the thing that we're very  
2 excited about is the dramatic drop between first and  
3 second offenders, dramatic.

4 COMMISSIONER LANNI: What is the percentage  
5 of second offenders of the total now?

6 MR. DePHILLIPPO: I don't have it off the  
7 top of my head, but when we did this second sting, the  
8 second offenders, because it's a five-day penalty, now  
9 a two-day penalty for the average agent is about \$200.  
10 A five-day suspension now gets into \$500, \$600 worth of  
11 lost revenue plus disgruntled customers who can't buy  
12 and they may actually buy their milk elsewhere and  
13 their bread elsewhere. So the second penalty is a  
14 pretty stiff one. And of course, the third one is a  
15 possibility of revocation of license, meaning that I  
16 could revoke them, but they could appeal it.

17 CHAIRPERSON JAMES: So, this is not like an  
18 ongoing program where you are constantly going in to  
19 outlets?

20 MR. DePHILLIPPO: We are. We are. Yes, it  
21 is. It started about 18 months ago, but we can only do  
22 it on school vacation. We can't get teenagers any  
23 other time.

24 COMMISSIONER BIBLE: Explain that again.

1                   MR. DePHILLIPPO:    I said, we can really  
2 only do it on school vacation periods because where  
3 else, how else can we get teenagers? We have to get  
4 kids to go in and try and buy the tickets.

5                   COMMISSIONER BIBLE:       Have you ever  
6 encountered conduct that was willful, where the vendor  
7 in your mind actually solicited, encouraged minors to  
8 buy the tickets?

9                   MR. DePHILLIPPO:    No, or not that I'm aware  
10 of.

11                  COMMISSIONER BIBLE:    Do you see the vendors  
12 as being more victims then, of kids coming in and  
13 trying to buy the tickets or just negligent in  
14 enforcing the age restrictions?

15                  MR. DePHILLIPPO:    I think it has to do with  
16 training that we're going to start; we have been  
17 working on a major training program. I think there are  
18 very few store owners that would, take the example what  
19 I just gave you, that woman, try to sell to minors.

20                  COMMISSIONER BIBLE:    Have you ever required  
21 surveillance?

22                  MR. DePHILLIPPO:    Excuse me?

1                   COMMISSIONER BIBLE: Have you ever required  
2 surveillance with retention of tapes, that they tape  
3 sales and customers?

4                   MR. DePHILLIPPO: Not for this reason, no.

5                   CHAIRPERSON JAMES: Commissioner Dobson.

6                   COMMISSIONER DOBSON: Chairman, yesterday,  
7 right before lunch, I mentioned why I would not be able  
8 to participate in that working lunch because I didn't  
9 know that that was coming and I had accepted an  
10 invitation to go into the Mattapan area. and I had an  
11 opportunity yesterday to put a human face on the  
12 victimization associated with the lottery and it made  
13 quite an impression on me and the other people who made  
14 that site visit.

15                   We went to a liquor store in a very low  
16 income, basically African-American community near here,  
17 and the things that we saw were really quite  
18 disturbing. The pastor who was with us said that when  
19 paychecks are received that people are lined up there  
20 at that liquor store to play the lottery. The liquor  
21 store owner, himself, said this is not good for these  
22 people. This is not good what it is doing to them.

23                   While we were standing there, we were  
24 blocking access to the lottery machine. People asked

1 us to move aside. There was a 58-year old man there  
2 who looked like he was about 70, who plays that lottery  
3 every single day, and I talked to him and I asked him  
4 why he played so often, because obviously he's putting  
5 a lot of money in it, and he admitted that he did and  
6 he said because this is the only way that I can quit  
7 working and he was banking everything. This was his  
8 retirement plan, fat chance retirement plan.

9           So, we can talk about where the money goes  
10 and all the benefits to society on this level up here,  
11 but when you go down and see where that comes from, it  
12 horrifies me to think of \$338,000 coming out of the  
13 community for that liquor store as an outlet. Maybe  
14 it's a little less than that but it's certainly going  
15 to be very significant because we saw it. So, I would  
16 just hope that we don't minimize the victimization  
17 associated with lotteries because I think it is a  
18 social cancer.

19           COMMISSIONER LANNI: Jim, did you happen to  
20 ask that liquor store operator if he had this moral  
21 dilemma of seeing people buy these tickets while he  
22 continued to sell them?

23           COMMISSIONER DOBSON: No, I didn't. And,  
24 in fact, I didn't talk to him. This staff member

1 talked to him so I don't know what he would have said  
2 with that, but I imagine, as somebody said yesterday,  
3 that the lottery is the difference between making it  
4 and not making it for some of those store owners.

5 COMMISSIONER LANNI: It was said again  
6 today, but it just seems--

7 CHAIRPERSON JAMES: Commissioner Moore.

8 COMMISSIONER MOORE: My wife having been an  
9 owner of a convenient store one time, secondary to one  
10 of my great investments, I just wonder if you wanted to  
11 help these people if you couldn't not let them buy a  
12 lottery ticket unless they spent some money in the  
13 store. That would help these people a lot also because  
14 their price is a little high on bread and milk, that's  
15 the way it is in Mississippi. Have we ever thought of  
16 that?

17 MR. DePHILLIPPO: No.

18 COMMISSIONER MOORE: But they did indicate  
19 yesterday that a lot of people that went in and would  
20 buy \$18 worth of groceries might just take the \$2, it  
21 might be brought out to them, hey, don't you want to  
22 buy a lottery ticket, which is fine. I see nothing  
23 wrong with it.

1           But I think Terry's question was also very  
2 good, is that we do these things and we sell these and  
3 yet should we condemn the people that buy them if we're  
4 going to sell them?

5           Another little story that I might add to  
6 this. I noticed in this convenient store that we were  
7 running, my wife, we had OBC, OCC cigarette wrappers  
8 when we took this over, but we didn't sell a North  
9 State or Old Country Gentlemen tobacco. I said, why do  
10 we sell cigarette wrappers if we don't sell tobacco and  
11 so the people say, oh, come on, doctor. He says,  
12 that's the way you roll your marijuana. I said, well,  
13 hell, I've never seen marijuana in my life, which I  
14 haven't. And I think, I know what you're going to  
15 think, that's strange. But here we were selling  
16 cigarette papers and didn't even sell tobacco, but  
17 people were coming in and buying it to do their  
18 marijuana.

19           So, I think that in all of this, we all  
20 have a social responsibility in what we do in a lot of  
21 things in life, if we want to tie morals to this. You  
22 know, we're not supposed to mention morals, someone  
23 said, in government.

1           And another thing along this line, you're  
2 talking about projecting what you're going to make for  
3 the lottery for your budget. Well, I thought it was  
4 amusing in President Clinton's State of the Union  
5 speech that he had all of this projection in this  
6 budget and how he was on counseling or how many  
7 billions of dollars he was going to get out of tobacco  
8 companies. And who knows whether we're going to get  
9 anything out of the tobacco company or not. Of course  
10 we have in Mississippi, we already have it in the bank.

11           But I think we project a lot of things and  
12 we do a lot of things out in the business world that  
13 may not be right, and I think this is one of those that  
14 we have to study. Even though the taxes are 75  
15 percent, I'll agree that the people that always buy it  
16 do not do so because they are particularly dumb. They  
17 may be on their way in trying to get \$400 to make a  
18 payment on a car, which they're going to lose the next  
19 day if they don't make it, and the only opportunity to  
20 do that is to go buy a \$2 ticket and maybe win.

21           COMMISSIONER DOBSON: But it's a false  
22 hope. It's preying on the poor.

23           COMMISSIONER MOORE: Sure it's a false  
24 hope, but that's my philosophy on this.

1                   CHAIRPERSON JAMES:     And it's always an  
2 interesting one.

3                   COMMISSIONER DOBSON:    I'll bet.

4                   CHAIRPERSON JAMES:     Commissioner Wilhelm.

5                   COMMISSIONER WILHELM:    I think it's very  
6 important not to lose sight of the point that Richard  
7 Leone made a while ago about the budget process.  You  
8 know, I grew up in the state of Virginia, as I  
9 mentioned before, and it's my understanding, although I  
10 didn't live there at the time, not too long ago,  
11 Governor Allen proposed to fill up a whole in the  
12 budget by adding Keno to the lottery.  And I understand  
13 he was saved from that particular indiscretion by his  
14 legislature at the time.

15                   But a man who was a very good friend of  
16 mine, Governor Weicker in Connecticut, where I lived  
17 for many years, always said that he was steadfast  
18 against any expansion of gambling in general and casino  
19 gambling in Connecticut.  And low and behold, he gave  
20 birth to the biggest casino in the world, the one we  
21 visited last night.  So, I think we ought not lose  
22 sight of the importance of the budget process in all of  
23 this.

1                   And I think that it's not irrelevant, the  
2 point that Commissioner Lanni made a few moments ago,  
3 that we can philosophize that perhaps people are wrong  
4 or being hoodwinked or something like that. But it  
5 does appear to be a reality that people feel  
6 differently about a tax that they decide to pay as  
7 opposed to one that they are compelled to pay. Maybe  
8 there's something wrong with that, but that does appear  
9 to be true and apparently, lotteries enjoy widespread  
10 public support even though, as I said, I personally  
11 don't have much use for them.

12                   I only mention those points because I hope,  
13 I think we're all agreed that whatever this panel isn't  
14 recommending, it isn't going to be prohibition of these  
15 things because it isn't going to work, and if we  
16 recommend prohibition, of course, we're wasting our  
17 time. And if we're not going to recommend prohibition,  
18 then I think we have to think very carefully, as the  
19 point Leo McCarthy continually makes in the research  
20 committee with respect to lotteries, we have to think  
21 very carefully about what recommendations are worth  
22 making since people do engage in these, not  
23 governments, but individual people.

1                   So, I hope that we make recommendations  
2 ultimately that are routed in reality and not in what  
3 any one of us, including me, just happens to think  
4 would make a lot of sense.

5                   CHAIRPERSON JAMES: And with that, I think  
6 that's a good place to stop, and I want to thank this  
7 particular panel for your expertise and your  
8 willingness to share that with this Commission.

9                   I think it should be fairly obvious to all  
10 at this point that these are, indeed, very complex  
11 issues that have not only budgetary implications but  
12 implications for the human beings that actually walk in  
13 and play the lottery every day and for their hopes and  
14 dreams.

15                   With that, I want to thank you and we will  
16 take a 15 minute break before we go back into session.

17                   (Whereupon, at 10:34 a.m. the proceedings  
18 went off the record until 10:58 a.m.)