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

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

We also had two that were withdrawn and then a set that were remanded.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

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

(Whereupon a short break was taken.)

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

DR. KELLY: Yes. Madam Chair, there were two
recommendations that were tabled. One of them was Recommendation 3.47 given to Commissioner Leone and I know he did some excellent work on that and addressed that in a May 26th and May 28th memo which everyone should have a copy of.

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

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 We have two recommendations that were withdrawn and then a set of recommendations that were remanded.

CHAIRPERSON JAMES: Let’s start with -- I’m sorry, Commissioner Wilhelm?

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

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

COMMISSIONER WILHELM: I’m sorry, I see it.

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

COMMISSIONER WILHELM: Thank you.

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

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

COMMISSIONER LEONE: Is that the fundraising? I’ll
read it. Let me just preface this by saying in each of the three recommendations that I drafted I tried to provide the clearest statement of what we wanted to get at that I could, so whether everyone agrees with them or not, it’s not intended to do anything but clearly state something that’s been already discussed.

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

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

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

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

COMMISSIONER LOESCHER: I’ll move.

CHAIRPERSON JAMES: It’s been moved. Is there a second?

COMMISSIONER WILHELM: I second.

CHAIRPERSON JAMES: Discussion?
COMMISSIONER LOESCHER: Madam Chair.

CHAIRPERSON JAMES: Commissioner Loescher.

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

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

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

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

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

COMMISSIONER MOORE: And when you’re talking about gaming licensees, you’re talking about tribal contributions to the political process, because they’re not licensed. You would not be
talking about vendors of lottery’s contributions to the political
process because they are not licensed. You’d only be talking
about commercial and casino gambling.

COMMISSIONER LEONE: I think that -- not necessarily.

I think that people get licenses to run convenience gambling in
specific locations in lots of states.

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

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

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

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

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

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

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

The tribal issue that Commissioner Bible raises I think is very troubling. Although I haven’t looked at the comparative numbers lately, I would hazard a guess that if the tribe which operates the Flaxwoods Casino in Connecticut is not the largest political contributor in Connecticut, it’s certainly among the
largest. I believe, Richard, and I could be wrong about this, but I believe that a state could limit any contributor to a state campaign. The United States government, for example, limits foreign countries from contributing to the federal level, there’s a control of foreign countries.

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

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

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

CHAIRPERSON JAMES: That’s why you’re the perfect person to do it.

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

COMMISSIONER LEONE: I think we could deal with the worker problem and this other issue by using the word franchise in the sentence, who receive permission to operate a gambling franchise of any type in the state. Or John, if by extension we
want to include the tribes, or under compact with the state. I
don't think it’s quite as simple legally as it sounds, but my view
on the general issue of campaign finance parallels Johns. It’s
extremely difficult. It’s extremely important in this country.

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

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

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

CHAIRPERSON JAMES: In order to move this along, what
would happen, Dick, if we dropped the preamble as we did in many
of our recommendations? Start with the Commission recognizes, and
put in your franchise language and take out key employees so that
it’s clear that it’s only -- would that get us closer to
something?

COMMISSIONER LOESCHER: Madam Chair?

CHAIRPERSON JAMES: Commissioner Loescher.

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

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

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

So I just have a hard, hard time with this kind of
thinking that disenfranchises people. I think the American way is
to put up your best ideas and let them win in the court of public
opinion. If you can’t, then you have to wait for another day. I
don’t think any amount of tinkering with these words are going to get us there, so I’m going to vote no no matter what you write.

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

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

I’m not sure I could equate that comfortably with the expression of free speech. It didn’t seem to be too much speech. It seemed to be an exchange of slogans. Not too much attempt to enlighten the public on the merits or lack of merits of the issues involved. So that’s really at the core, I think, of what Mr. Leone has proposed here in part, is that the general sense, even though this goes to a narrower part of that. I don’t think we should exclude what is a very rational proposal.

CHAIRPERSON JAMES: Commissioner Lanni.

COMMISSIONER LANNI: My views, just so I can particularly specifically state is, one, I don’t think individuals should be denied the right to contribute to campaigns. I do believe, much as the federal law, that corporations should not be in a position. My own view is this does not embody my particular position on this subject. Philosophically I think there should be
limitations, but the limitations should be on the entities themselves, the corporations, in the event that there are corporations, the companies, the privately held, what-have-you.

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

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

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

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

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

CHAIRPERSON JAMES: No, it did have a second.

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

CHAIRPERSON JAMES: Right, but what would it be?
COMMISSIONER LANNI: I stated my view, personal view is that city, county and state races that entities, licensed entities, should not be in a position to make contributions, however employees and officers of those entities have the, in my opinion, the right to make contributions, but do not have the right to be reimbursed for them by the entity or any other source. Not unlike the federal law.

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

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

COMMISSIONER WILHELM: So gambling entities.

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

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