CHAIRPERSON JAMES: With that, I’d like to move to the
next one.

DR. KELLY: The next one is Recommendation 5.4, and you
should have this sheet that’s titled, "Recommended Language from
Commissioner Bible." Would you like me to read that or
Commissioner Bible, would you like to present it?

COMMISSIONER BIBLE: You can go ahead and read it or I
can read it. This is a rewrite of the recommendation that
contained the Grave Wave form of gambling that we talked about
last time. The Commission asked me to take another look at that
and I’ve crafted it to read in this manner.

The Commission recognizes the current technologies
available that makes it possible for gambling to take place in the
home or the office without the participant physically going to a
place to gamble. Because of the lack of sound research on the
effects of these forms of gambling on the population and the
difficulty of policing and regulating to prevent such things as
participation by minors, the Commission recommends that states not
permit the expansion of gambling in the homes through technology
and the expansion of account wagering.

What this recommendation would do would be to recommend
the states not approve technology that provides for home gambling
and that account wagering would be frozen where it currently
exists.

COMMISSIONER McCARTHY: I would second that
recommendation. I think you moved it. But I have a question. It
seems to me to be consistent with the other recommendations the
preamble should be discarded. It can be utilized for discussion
purposes, but the preamble should be discarded and I think the
motion, as the proposer would agree, should begin with the Commission recommends that states not permit the expansion of gambling into homes through technology and the expansion of account wagering.

COMMISSIONER DOBSON: We do have some rhetoric in these recommendations, just shortened.

COMMISSIONER McCARTHY: I might say on that point that the staff stripped out what they considered some rhetoric.

COMMISSIONER DOBSON: You have the home court advantage here, Leo.

COMMISSIONER WILHELM: So you’re going to support the preamble?

COMMISSIONER McCARTHY: I would contend that the preamble should be in the text of various sections and not necessarily in the summary here. So you want to leave the preamble in?

COMMISSIONER DOBSON: I don’t care.

CHAIRPERSON JAMES: What we have before us right now is a motion. It has been seconded. It has all of the language.

COMMISSIONER McCARTHY: I would propose an amendment.

CHAIRPERSON JAMES: You would propose an amendment? Is there a second for the amendment?

COMMISSIONER LANNI: I would second that if we could have the preamble placed elsewhere in the -- which we do in a lot of cases.

CHAIRPERSON JAMES: Then we need -- then there’s a vote -- let’s vote on that amendment to the motion. All in favor? Opposed? The motion does not carry, so now we have before us the entire recommendation.
The Commission recommends that parimutuel account wagering, an activity that historically has been authorized, licensed and regulated by the states, remain a matter for state determination consistent with existing federal and state laws, provided the states take appropriate steps to protect against underage and problem gambling.

COMMISSIONER DOBSON: Is that a substitute?

COMMISSIONER LANNI: No, it’s an addition. The Commission further recommends may be a better -- thank you.

COMMISSIONER BIBLE: For purposes of discussion, I would accept the amendment.

CHAIRPERSON JAMES: Discussion?

COMMISSIONER LEONE: Could we have the preamble?

COMMISSIONER LANNI: I think the argument, much is found in much of the literature and documentation and testimony made by members of the parimutuel commission or parimutuel entities, if you will, there are a number of states that have this form of gambling in place for many, many years, and the difficulty that I have is to force the states to withdraw an opportunity the people have invested money in to date.

There have been no instances of testimony before this commission, there have been no instances of ill behavior or foul play, if you will, in this particular manner, reported by any one of the states that oversee the form of gaming that takes place by telephone wagering. I think it is regulated, there are licenses, not licenses, but people must apply and present the information that they’re at least 21 years of age.

I have reason to believe that this is not a problem,
and I find it very difficult to force enterprises that have
invested substantial funds to withdraw from enterprises that have
not had any problems. To me it would be an over kill, and I think
it’s appropriate for us to allow this to continue and for states
to determine if they want it to continue or not to continue,
rather than us recommend that it be rolled back.

COMMISSIONER McCARTHY: Madam Chair, as I understand
Mr. Bible’s language, it puts in place the existing account
wagering states, is that correct?

COMMISSIONER BIBLE: That’s correct.

COMMISSIONER McCARTHY: So we’re not really depriving
anyone currently making a living based on account wagering.
Before Mr. Bible’s subcommittee we had a number of hours of
testimony of people that thought -- most of them testified against
an effort to prohibit internet gambling. A number of them were
not in favor of betting from home.

So I think what we have in front of us is an attempt to
send a couple of messages, this group of recommendations in this
section. It’s to try to approach the prohibition of internet
gambling in some kind of a logical cohesive way without agreeing
to a long list of exemptions, which makes a mockery out of an
already excessively complex task in front of trying to prohibit
gambling on the internet.

These points are sort of interconnected with the issue
of gambling from home, which is already permitted in eight states,
eight or nine, and there’s a very aggressive effort to expand that
into a number of other states. These issues are cousins, I think,
and I think we just ought to sort of keep an overview of where
we’re going with this series of recommendations that Mr. Bible has
I brought out of his internet subcommittee.

I can appreciate what Mr. Lanni said, but the Congress and the Kyle bill is succumbing to this very problem. Everybody wants to be exempted from the bill. I’m almost at the point where I think if we really want to look at the internet gambling with some careful rationality, and we want to look at the basic issue of betting from home, we ought to take an entirely different approach, the one that Congress is talking about.

CHAIRPERSON JAMES: Commissioner Lanni?

COMMISSIONER LANNI: I do not believe -- I do not accept the position that wagering at home is a form of internet gambling. Maybe sort of, as you’ve said, but I’m not quite sure what the word sort of means.

COMMISSIONER BIBLE: I think you’re right. I think it may graduate into that, but I think that’s where we’re headed.

COMMISSIONER LANNI: It would be like saying my grandmother would be a buss if she had wheels. I mean, the issue is that it doesn’t really mean anything. The real aspect is that you have it now. I firmly -- I’m a great believer in states’ rights. I’ve said that every single meeting. I mention that as much as John mentions jobs, but I really believe in that.

I don’t think we should restrict states from the determination, as long as they believe and we feel that they can control the aspect of underage gambling and deal with the problem aspects of gambling in this form, they shouldn’t be restricted from making the determination, even after a pause, I might add, Leo, that they may want to expand and incorporate a form of at-home wagering, because other states have done it. They’ve done it for a number of years without a problem.
The old thing, if it’s not broken, why try to fix it?

And I think exceptions do exist. When Congress gets together, there are going to be exceptions. That’s why they have one house, a lower house and an upper house, why you have committees and you have conferences following different bills coming out of each. The Kyle bill did pass the Senate, unfortunately didn’t move as appropriately through the house. I’m hopeful that it will. But I just don’t think the two comport, with all due respect.

COMMISSIONER LEONE: Terry, I think that the heart of this question could be put as follows. In a technical sense, it is true of everything we talk about. States and federal government are free to do whatever they want and will do whatever they want. They may or may not take our advice and therefore we could have language to that effect all over the place in this report.

On the other hand, the report is about whether we care what they do and whether we have advice about what they do. I think it’s quite a different thing to go beyond the existing situation and say if other states want to join in this activity, that’s up to them. In a technical sense that’s true because they’re sovereign and we’re not, but it is still our responsibility to give our best advice and to say whether we think it’s a good idea for them to do this.

I take Bill’s thrust of the basic motion on the floor as saying -- and I think it’s a moderate motion based on what we know now -- we should hold off. That’s our opinion or our opinion if we vote for it. I took Bill’s reasonable recommendation as not effecting people who are not already in the business. We don’t say and those who have already extended opportunities to gamble
through electronic means should roll back. That isn’t in the
recommendation.

COMMISSIONER LANNI: And I accept that. I think Mr.
McCarthy, Commissioner McCarthy, explained that, and I accept
that. It still goes to the issue that if gambling is determined
to be legal in any form in the state, I think that the individuals
should have the right as a state and individuals in that state to
have that form of gambling, and it shouldn’t be restricted to
other people. We just philosophically have a difference on this.
My recommendation would be different than your’s, but I respect
your right to have your’s.

COMMISSIONER BIBLE: In some cases account wagering is
very much like the internet where it takes on an intrastate
character because there are some applications where tracks are
taking wagers on an intrastate basis and will accept bets from a
number of states, and some of those states may not authorize
gambling or that form of gambling. That is unique because it’s
restricted to intrastate. It’s only within the State of Nevada
that you can get access in the form of account wagering. So it
varies from state to state. What this recommendation does is
indicates that states not expand the forms of account wagering.

CHAIRPERSON JAMES: All in favor? Opposed? Let’s have
a roll call. Commissioner Bible?

COMMISSIONER BIBLE: No.

CHAIRPERSON JAMES: Dobson?

COMMISSIONER DOBSON: No.

CHAIRPERSON JAMES: Lanni?

COMMISSIONER LANNI: Aye.

CHAIRPERSON JAMES: Leone?
COMMISSIONER LEONE: No.

CHAIRPERSON JAMES: Loescher?

COMMISSIONER LOESCHER: Aye.

CHAIRPERSON JAMES: McCarthy?

COMMISSIONER McCARTHY: No.

CHAIRPERSON JAMES: Moore?

COMMISSIONER MOORE: No.

CHAIRPERSON JAMES: Wilhelm?

COMMISSIONER WILHELM: Yes.

CHAIRPERSON JAMES: James, no. The nos carry. We’re now ready to move over to 6.2. This was --

DR. KELLY: Madam Chair?

CHAIRPERSON JAMES: I’m sorry. This is the stripped down version? That was on the amendment, I apologize.

COMMISSIONER DOBSON: We voted on shortening this? Did we shorten it or not shorten it?

CHAIRPERSON JAMES: We did not shorten it. We did not shorten it, so it is as written. All in favor? All opposed?

COMMISSIONER WILHELM: No.

CHAIRPERSON JAMES: The ayes carry. This is the 6.2, the next one that’s up, is that correct?

DR. KELLY: It’s 6.20, Madam Chair.

CHAIRPERSON JAMES: Yes, 6.20, that’s right.

DR. KELLY: And this is a --

CHAIRPERSON JAMES: That one I asked if Commissioner Loescher and Commissioner Moore would work on and bring back to us on the recommendation for how we could achieve our purposes.

COMMISSIONER MOORE: We’d like to recommend that you turn to tab 9, page three, paragraph three. This is under
gambling impact on people and places. We’d like to move that we
think that in the third paragraph, and we’ve said enough about
this problem of not getting information from the Native American
tribes, and to not discuss the issue anymore. We’d like to
recommend that we accept the language within this paragraph as
fulfilling that position.

CHAIRPERSON JAMES: Certainly would be acceptable to
me. So there is no motion to offer there?

COMMISSIONER MOORE: No motion to offer. We’re willing
to accept that and the subcommittee recommends that we do, Mr.
Loescher, Mr. Wilhelm and myself.

CHAIRPERSON JAMES: Hearing no motion, then we have the
next order of business, which is?