CHAIR JAMES: John, I'm going to ask if you would go ahead and start with your overview of the Internet.

I'm going to ask in the back of the room that we sit down, take your seats.

DR. SHOSKY: Thank you, Madam Chair. The Internet chapter is another one of the second draft chapters that I spoke of yesterday, which means is that what we have done is we did the first draft, and incorporated the comments, as best as we could, from the Commissioners as we received them.

That is not to indicate that we incorporated every single thing so far, because some of the comments required additional research, which we have undertaken, but we haven’t completed yet.

If I may, let me just go through a few issues that pop up right at the beginning.

One of the things that we have been told from several of the Commissioners is that the discussion needs to be beefed up in one portion in particular, and that is the discussions between prohibition versus regulation, and why prohibition, the arguments with prohibition leads to the recommendation that was agreed upon at the retreat.

And that is something that we try to do, but still needs a bit of work.

The second thing is that as you probably know Senator Kyl has introduced, again, the Internet Prohibition Act of 1999. There has been a lot of staff work to try to delineate the difference between this year’s bill and last year’s bill. There has been a lot of discussion with the Hill, gathering information that is coming in about the Kyl bill.
And there are some differences which are very important, I think, for our purposes. One is the discussion about pari-mutuel wagering, a second is a discussion of on-line fantasy sports wagers. The third is what is called closed loop subscriber based network, and then the fourth is just more information about Internet service providers.

And we are gathering that information, and in fact we have done quite a bit of work on it so far, and some of that information has been sent to Commissioner Bible, and also other Commissioners on the Internet Subcommittee.

And we are trying to add some further things into the chapter. We need to discuss, at some point, what enforcement mechanisms we are going to recommend, what branch of government should monitor, what format the policy should take.

For example, in addition to the entire section of the United States Code at Title 18, where just an additional language to 10.84, which is a section of that code.

The types of data collected for future research on the Internet, special treatment/discussion regarding international issues, special problems about crime, there is a whole list of those, actually, free speech problems, problems related to pathological gambling, and problems related to access for adolescents.

Those are all things that, after the second draft, we think we still need to work on.

CHAIR JAMES: Do I hear any discussion? John, it may be helpful if you would just go through the areas that you see that you still need some feedback on. You listed several questions there. Start with the first one, and see if you can get some feedback.
DR. SHOSKY: Terrific, thank you Madam Chair, I would be glad to do that.

If I could, by way of comparison, say something about the document itself? You know, I wish that I could claim that I have taken the lead on this, but as you know Valerie Rice has done quite a bit of the work on this. And I have to say that she has done a really good job.

We have been able to incorporate a lot of information that is in the public domain, and we have also searched high and low to get information from experts all over the world.

And what has happened is that as we have moved up the cutting edge on this, there are all kinds of problems that are springing up, and issues that people want to talk about, that literally there is no literature on in some cases, and we are breaking new ground with a lot of this stuff.

Let me give you a case in point. There is a lot of discussion at the moment about Internet -- about how, the mechanism about how Internet gambling takes place. But when one starts talking about restrictions, V-chip type options, and things like that, that whole thing generates technology questions that we are trying to approach and figure out.

And that is counterbalanced against a prohibition argument. And you remember from the discussion down at the retreat, there are a lot of people who are arguing for restrictions based on taxation issues; based on the hope that there can be new technological advances, and things like that.

So all of that has got to be discussed, and then weighed against the arguments about prohibition. And I think that is the biggest single thing that we still have to do with
this chapter, is to explain in a cogent way why cognizant with all the arguments on regulation, we still choose prohibition.

COMMISSIONER LEONE: Have we made any progress on the implementation of prohibition? I thought one of the questions was how would that work.

COMMISSIONER BIBLE: We are still working on identifying enforcement mechanisms, there are a number of enforcement mechanisms that are incorporated in the new version of the Kyl Bill which has now been introduced.

We were looking at some additional suggestions which the staff has developed, that is my intent to have, hopefully, out to people by the meeting of the subcommittee in conjunction with our meeting later this month and come up with a laundry list of possibilities for enforcement.

I can think of a couple of areas that strike me fairly readily, particularly enforcement mechanisms in the current version of the Kyl Bill, they don’t include what I think is following the money, and perhaps taking a look at the methodologies in which these type of transactions or calculations, credit card transactions, or mail-in cash through --

CHAIR JAMES: I’m going to, as I always do, Bill, ask you to swallow that microphone.

COMMISSIONER BIBLE: There are a number of additional mechanisms that we are looking at, and we will come back with recommendations that will be fairly comprehensive. Quite frankly, this might be better than the Kyl Bill, I think he has left out some areas and possibilities.

CHAIR JAMES: Do you have a sense yet, Bill, of the timeline on that, when that is going to be available?
COMMISSIONER BIBLE: We are going to have it done by the next Commission meeting.

CHAIR JAMES: Or before?

COMMISSIONER BIBLE: We will try to get it accommodated.

CHAIR JAMES: John?

DR. SHOSKY: Another area that we need to discuss is what we would call the special problems about crime. If I could go through some subdivisions on that; money laundering, the use of Internet gambling for laundering money; unreliable gaming integrity which, as you know, is something that has come up quite a bit on this; unreliable retrieval of winnings, which is really tough on those off-shore accounts, in particular I guess. And then also skimming.

So there are criminal justice aspects to this, as Commissioner Bible has said, it ties back into methodology, how the transactions are accomplished.

CHAIR JAMES: And is your report, is your subcommittee looking at those issues as well?

COMMISSIONER BIBLE: Well, some of the issues, interestingly enough the one issue that he has identified in terms of money laundering activity, the federal government activity that supervises the enforcement of Title 31 applies to these type of transactions, it surprises me, and the record should reflect that in fairly short notice we asked them to make a presentation to one of our subcommittee, and they arranged their schedules to do it.

CHAIR JAMES: Well, my suggestion is this in terms of how we handle that, since we have a subcommittee. And who are your subcommittee members on that?
COMMISSIONER BIBLE: Dr. Moore and Leo McCarthy.

CHAIR JAMES: That you all continue your work on that.

There seems to be some amount of consensus on where we want to go on that particular subject. Unless there is something someone wants to say for the record?

COMMISSIONER WILHELM: I would just ask the Internet subcommittee to take a look at the text in the draft of the Internet section related to pari-mutuel betting. I agree with the Chair, because I think there’s a lot of consensus on the Internet subject.

It is not apparent to me that the account wagering issue is appropriately dealt with under the Internet heading.

COMMISSIONER BIBLE: I don’t think that is an area where account wagering logically falls.

COMMISSIONER WILHELM: I don’t either, and I’m not reaching in this comment the question of what our position might or might not be with respect to account wagering. I think it belongs to the pari-mutuel area, but I would ask the subcommittee to take a look at that issue, I mean the issue of where it belongs.

CHAIR JAMES: Structure, sure.

DR. SHOSKY: This is precisely the comment I was hearing yesterday on pari-mutuel, but cross-referencing is okay in this report, but this was literally a case where some of these issues on pari-mutuel have been dealt with here, and we just simply need to figure out where it was going to go.

COMMISSIONER WILHELM: Well, account wagering, as it is practiced, and conceptually doesn’t really have anything to do with the Internet, it is truly, you can have an Internet version of account wagering, I just deal with account wagering straight
on, not as a subset of Internet. And I think it belongs with the
pari-mutuel discussion.

COMMISSIONER BIBLE: We all agree with you, John.

DR. SHOSKY: May I also mention one other thing, just
as a footnote to this discussion, and that is that the material
that came from Commissioner Wilhelm, which all of you have, on
first amendment issues, we can talk about in advertising, but it
would have some relevance here.

COMMISSIONER WILHELM: The material that came from me
had nothing to do with advertising, it had to do with the
Internet, but whatever.

DR. SHOSKY: I just treated it as a first amendment
issue.

COMMISSIONER BIBLE: A lot of people try and wrap the
Internet argument into the first amendment, and I agree with you,
I don’t believe it is a first amendment -- we are not talking
about freedom of speech here, we are talking about transactional
issues.

COMMISSIONER WILHELM: Precisely. The framing of the
material that you are referring to is that the conduct of
gambling is not a first amendment issue, that is unrelated to
advertising about gambling, which probably is a first amendment
issue according to the apparent direction of the federal courts.

But the conduct of gambling has absolutely nothing to
do with advertising, it has nothing to do with the first
amendment, in my view. So I don’t know why it would be in
advertising, it doesn’t make any sense to me.

COMMISSIONER BIBLE: No, and I agree, at least the
proponents of Internet wagering try and hold that particular
issue as a violation of their first amendment rights.
CHAIR JAMES: That was the context in which you came up, and which sparked your very good piece on that subject.

COMMISSIONER WILHELM: As long as you raise that point, John, I found the legal discourse in the Internet draft to be somewhat confusing.

COMMISSIONER LEONE: In general, without distorting the record, if we could summarize this data, and maybe characterize the current argument rather than cite cases and sequences, I think we would be doing more of a service with the report, we don’t want to distort where things stand by doing that.

I mean, this is report for general consumption, and if it were a magazine article about the law, a Law Review article about the law, general circulation type of article, some of this is hard going, I think.

COMMISSIONER BIBLE: I would concur in your comments, Valerie has done a tremendously good job in producing this particular document.

CHAIR JAMES: Great, appreciate that. Any other comments before we move on? I’m going to suggest we -- if you look at the schedule I’m trying to buy back a little time from this morning, so we can dispense with the break, and move right into advertising.