CHAIRPERSON JAMES: I'd like to thank each of you. I know that it's been an incredible burden for you to be here today. There's not -- that it is a very unusual day, I know, in the lives of at least two of you. Is there anything, Senator Reid or Congressman Ensign, that you'd like to share with us now?

CONGRESSMAN ENSIGN: No comment.

CHAIRPERSON JAMES: Given that situation, I think your commitment to the public policy process and your commitment to this state is very evident in the fact that you would take your time to be here today to express your views, all of which are very important to this Commission, and I want to thank each of you for your contribution. Also, thank you for your help in hosting this and putting this together, your input in all the various panels, is very much appreciated. It isn't over yet. We will continue to need to hear from you and to depend on your expertise and your advice as we bring this to a conclusion.

MR. LOESCHER: Madame Chairman.

CHAIRPERSON JAMES: Absolutely. I was about to say if there are any Commissioners that would have any comments or questions at this point, I'd like to open it up.

Commissioner Loescher.

MR. LOESCHER: Madame Chairman, I have two.

Senator Bryan, I'm from Alaska and you probably know my senators, Ted Stevens and Frank McCousky (ph.).
I received a copy of your letter from our Chair, and a copy of information that requires that the government accounting office audit this Commission, and you pose a number of other questions, one dealing with FACA and why did we come to a conclusion that we are not governed by FACA, although it's our intent as a Commission and our Chair fully expresses that we will follow FACA to the fullest extent possible, and that's our policy on the Commission.

And then you question our legal advisor. Why do we have our own legal advisor, in your letter. This exercise has caused considerable administrative costs to our staff -- over a couple hundred hours just responding to the GAO audit. We've had to have legal advice and it's not over yet. And my concern is what is your purpose? Is it to delay us? Because we could use this time and resources to work on Internet and these other things that Congress finds so important, but we'd like to hear from you.

SENATOR BRYAN: That's a fair question. I'm happy to respond. Let me say that a number of people contacted us, raised some concerns about both financial issues as well as personnel turnover, as well as -- and in my view at least -- the non-compliance with the Federal Open Meeting Law, FACA as you called it.

Now, let me just make it clear that I made no public statements or accusations. Indeed we did not release the letter nor did we issue any press statement. Absolutely nothing. That
was a decision which the Commission made to make others aware of it, and I don't quarrel with that judgment, but you need to know we made no public statement or comment about that.

Secondly, the questions that have been requested are of a routine audit nature. If indeed it's taken 200 hours I would respectfully submit that you might want to reconsider the people who are responding to these questions. These are routine audit questions. There's nothing that requires a rocket science reply, and if indeed all of the things that the GAO has talked about are in compliance, and they may be, this is a very easy thing. It is not my purpose in any way to delay, but there were some serious concerns raised by others and I requested the general accounting office to make that inquiry.

MR. LOESCHER: Madame Chairman, the second question, and I'll be done. I'm a Native American from Alaska. I've been a Tribal Council member for 30 years. I recognize that special relationship that Native Americans have comes through the US Constitution under the Commerce Clause where Congress keeps plenty of authority over Native American affairs, and it was in that spirit that Congress enacted IGRA, the Indian Gaming Regulatory Act. We -- I serve with Dr. Moore and Mr. Wilhelm on the subcommittee that deals with Indian gaming on this Commission, and we've had over 70 witnesses so far, Tribal leaders from across America, testify to this Commission. And we have found that Native American gaming operations are regulated at the local level by state governments, by Tribal governments,
and then by the Indian Gaming Regulatory Commission, and substantial amounts of dollars and manpower and reporting are -- and also independent auditors are employed in that regard -- at these multiple levels of regulations.

So this morning we endured a cheap shot by Governor Miller and again we hear some criticism from the two senators from Nevada regarding the Indian gaming regulatory to the story that it's not regulated. That's not quite our finding. We also know, and this Commission took a position regarding this issue of regulations by the Secretary of Interior, you know, regarding compacting between the states and Congress delayed that matter until April or May of this forthcoming year. So it's in Congress' hands as to what's going to happen there.

But I'm wondering if your position is not more partisan in defense of your state and the industry here than it is in terms of looking at the US Constitution and the Doctrine of Tribal Sovereignty versus the Doctrine of State Rights, and how you reconcile that given the facts that we're finding.

SENATOR BRYAN: Mr. Loescher, let me say at the outset that I am a supporter of IGRA, the Indian Gaming Regulatory Act of 1988, as I believe it was enacted by the Congress. That was the year before I got there. The underlying premise of IGRA is to the extent that a state, as a matter of its exercise of its own sovereignty, makes a determination that any form of gaming be permitted in that state, Native Americans within that state should have the same opportunity. I fully
subscribe to that. As you know, two states have made a judgment
to have no form of gaming at all; Utah and Hawaii. So the
premise of IGRA to be valid, namely to the extent that a state
makes a determination to have any form of gaming, that same form
of gaming ought to be made available to Native Americans within
that state.

My concern is that I do not believe that there is a
comprehensive, regulatory structure that is adequate. You have
40 people -- 40 people that in effect oversee the operation of
300 Tribes with gaming operations involving -- pardon me --
that's 300 Tribal gaming operations with 186 Tribes in 25
states. Now, you have indicated that the states have
jurisdiction to regulate. That is not true, sir, unless the
Tribe is willing to enter into a compact with the state and do
so. My former budget chairman and friend of many years, Bill
Bible, will correct me if I mistake the proposition. I believe
in Nevada we have negotiated five compacts. And as part of that
negotiation, the state oversees the regulation, but the state
has no power if the Tribe as part of its negotiations with the
Governor refuses to accord that right. So in effect, what we
have and what I fear, we have a regulatory vacuum. I do not
believe, sir, with all due respect to your concern that we have
an adequate regulatory structure in gaming, and the sole purpose
of my testimony is not denigrate Indian gaming, but to simply
say that when cash is an inventory, when 7.4 billion dollars
generated nationally -- I've lived in this state for more than
six decades. I can understand what can happen and I am very fearful that without an adequate regulatory structure we have some major problems, and I believe that you and members of this Commission can provide some leadership to make sure that we have that regulatory structure.

SENATOR REID: Madame Chairwoman.

CHAIRPERSON JAMES: Certainly, Senator Reid.

SENATOR REID: If I could join with in answering the Commissioner from Alaska's question.

First of all, I'm familiar with the statement of Governor Miller. It certainly was not a cheap shot. Governor Miller is Governor of the state of Nevada. He served longer than anyone else. He served 10 years as the Governor of the state of Nevada. He has a long career as a judge, as a chief prosecutor in this county, Las Vegas, and Governor Miller doesn't take cheap shots. What he said he believed. And while you may believe it's a cheap shot, Governor Miller feels that his information given to this Commission should be probative in nature.

I would also say that I can't speak with a lot of authority about a lot of things, but gaming regulation is something I can speak with some authority. I was chairman of the Nevada Gaming Commission for over four years. During that period of time we went through some very difficult times with organized crime attempting to infiltrate, and did infiltrate on a number of occasions, legalized gambling in the state of
Nevada. Had we not had the strict regulations and enforcement we had in the state of Nevada, it would have been untoward. We were able with the workings of the Federal Bureau of Investigation and others to do something about what was taking place.

And for you to say, Mr. Commissioner, that Indian gaming is regulated properly is based either upon a lack of knowledge or wishful thinking. I have attempted, as a member of the Indian Affairs Committee of the United States Senate, to put some teeth in the ability to enforce what limited regulations there are in Indian gaming. But we can't get the revenues to do that, the Tribes fight us every step of the way. And also Senator Bryan talked about 40 people trying to enforce gaming laws in 25 different states and 300 different Tribal -- Tribal gaming entities. Keep in mind that the Indian Gaming Commission has no control over most types of gambling anyway in Indian country. So for you to say that it's regulated properly, I have to respectfully disagree. I'm not here to denigrate Indian gaming. I think there are some operations that do a very good job, and have been good for Indian country. But I think you are simply being unfair, and I'm just saying based on lack of knowledge, I hope. But the fact of the matter is that we need regulation. There's an unfair playing field out there. You have places like Nevada and Atlantic City have the strictest controls possible with gaming, and we have little or no control
in Indian country. It's unfair. It's not taxed and it's not regulated. That's unfair.

CHAIRPERSON JAMES: Any other comments? Any other Commissioners?

With that again, I'd like to thank you on a very busy day in your lives for being here and thank you for your commitment to the public policy process.

I'm going to call for a break right now so we can set up for our public comment period, and so that we can say goodbye to our guests.