CHAIR JAMES: With that, let’s turn to Section 3 and a reminder that the proposed recommendations, again, could be placed under a number of different sections, and our purpose is to settle on the recommendation first, and we can then talk a little bit at a later date in June when we get together about where that should go.

A handout is available for Recommendation 3.13. Has that been passed out? It has been? It’s being done now? And for Recommendation 3.14, contains the exact language that we voted on last time. It’s just important to remember that.

COMMISSIONER McCARTHY: I’m sorry.

CHAIR JAMES: I would -- I’m sorry?

COMMISSIONER McCARTHY: I’m sorry. Did you say that we voted on 3.4 or 3.14?

CHAIR JAMES: Three, point, one, four.

COMMISSIONER McCARTHY: Thank you very much.

COMMISSIONER WILHELM: I had a question actually in that regard since you went to 3.14.

CHAIR JAMES: We’re going to start at the top, and we’ll get to that one in a minute.

Again, just to remind Commissioners that what you have in front of you, 3.1 through 3.13 were recommendations that came out of our April 7 through 8 meeting as consensus recommendations.

We can go through each of those individually or we could look at them in a group. What’s your pleasure?

COMMISSIONER BIBLE: I’d like to handle them one by one.

CHAIR JAMES: Okay. Let’s do it.
Three, point, one, "the Commission recommends that because in many states there is little regulatory oversight for organizations contracted to help manage or supply the lotteries. States should put all individuals, entities, and organizations involved with managing or supplying the lottery through a rigorous background check and licensing process."

Is there a motion to adopt?

COMMISSIONER LANNI: Since I recommended it, I move that we adopt that.

COMMISSIONER WILHELM: Second.

I have a question. I support the thrust of this recommendation. However, just as a point of information, is there, in fact, in our records support for the phrase "there is little regulatory oversight for organizations contracted to help manage or supply the lottery"?

I don’t specifically recall it, and in fact, there’s at least some inference to the opposite in some of these governor letters. So, again, I support the thrust of the recommendation, but I’m very nervous about our asserting things that our record doesn’t support. I don’t recall support for that particular point.

CHAIR JAMES: John, what I have done is marked the phrase "there is little regulatory oversight for organizations," and I’ll direct the staff to check the record for that, and we’ll bring it back to you with that language.

COMMISSIONER LANNI: Madame Chair.

CHAIR JAMES: Excuse me. Commissioner McCarthy then Commissioner Lanni.

COMMISSIONER McCARTHY: Madame Chair, I was just going to suggest we’re going to come across a number of these where
possibly a word change would satisfy the author of the issue and allow us to make some decisions and move on.

CHAIR JAMES: That would be fine.

COMMISSIONER McCARTHY: I don’t know if Mr. Lanni had a word, "limited" instead of "little" or whatever, that he might feel would fulfill his purpose in this.

COMMISSIONER LANNI: The recommendation that I made was an oral one at the meeting in Virginia, and this is not actually the specific of what my recollection of my recommendation was, and I would recommend that we delete the word "because," delete the word "many," add the word "where" following "states."

And it would read, "The Commission recommends that in states where there is little regulatory oversight for organizations," because that was the intent.

There was an indication there were certain states. I don’t recall, in fact, there were many states.

COMMISSIONER McCARTHY: Move the question.

CHAIR JAMES: All in favor?

(Chorus of ayes.)

CHAIR JAMES: Any opposed?

(No response.)

COMMISSIONER LANNI: You have to ask for abstentions.

CHAIR JAMES: Are there any abstentions?

(No response.)

CHAIR JAMES: I didn’t hear any.

COMMISSIONER LANNI: There may well be though.

CHAIR JAMES: Three, point, two, "the Commission recommends to states with lotteries that states should publicly develop and review model regulations for their lottery in the form of best practices designed to be adopted legislatively."
COMMISSIONER LANNI: So moved.
CHAIR JAMES: Is there a second?
COMMISSIONER McCarthy: Second.
CHAIR JAMES: Discussion?
(No response.)
CHAIR JAMES: Call for the --
COMMISSIONER LANNI: Call for the question.
CHAIR JAMES: Thank you.
All in favor?
(Chorus of ayes.)
CHAIR JAMES: Any opposed?
(No response.)
CHAIR JAMES: Three, "the Commission recommends that states effectively police themselves through a process truly independent from state lottery agencies."
COMMISSIONER LANNI: Madame Chair.
CHAIR JAMES: Commissioner Lanni.
COMMISSIONER LANNI: Not to be burdensome, but I really do request that you ask for any abstentions because --
CHAIR JAMES: All right.
COMMISSIONER LANNI: -- you never know if you’re not going to take a roll call vote.
CHAIR JAMES: We will do that. Thank you.
COMMISSIONER Wilhelm: On 3.3.
CHAIR JAMES: Un-huh.
COMMISSIONER WILHELM: I can’t unfortunately point to it at this second, but I believe there’s at least one other recommendation somewhere in here that is similar to this, and I thought with all due respect to the author of this one, it’s perhaps somewhat more precisely worded. I don’t remember where
it is, but I would support the concept, but I think perhaps we ought to look at -- I don’t know if there’s an organized, efficient way to do this, but --

CHAIR JAMES: Would you like to table this one and we can come back to it later?

COMMISSIONER McCarthy: Pass temporarily?

CHAIR JAMES: Yes.

COMMISSIONER McCarthy: Till we look for the other similar motion, and I think we’re going to have to do that.

CHAIR JAMES: We’re very flexible here.

COMMISSIONER McCarthy: I think we’re going to have to do that in a number of places.

COMMISSIONER Wilhelm: Yeah, that’s okay. There’s a bunch of these, as you pointed out earlier, Kay.

CHAIR JAMES: That’s right.

COMMISSIONER Wilhelm: There’s a whole bunch of these.

COMMISSIONER Leone: I’ve marked some of them, but now that I’ve marked them, I can’t find them again.

(Laughter.)

COMMISSIONER Wilhelm: I marked them in my head, which means they’re lost forever.

CHAIR JAMES: Why don’t we temporarily pass that one

COMMISSIONER Bible: It may be there’s time just to talk about this and decide what we want to say about this issue because I think, and this is a good example, this is an issue where I believe the Commission wants to make a recommendation to states that they develop an independent organization, a board of directors, whatever you want to call it, to oversee the activities of state lotteries, to look at their advertising
practices, their marketing practices, and a number of their practices to create some independence.

CHAIR JAMES: Bill, I think that’s in the lottery section, and so I’d like to move on, and when we get to that, we can have a lengthy discussion on those issues, and it would be within the context, if you don’t mind.

COMMISSIONER McCARTHY: Okay. Pass temporarily.

COMMISSIONER MOORE: May be a better one.

CHAIR JAMES: Number four, "the Commission recommends to the President and Congress, GSA and GAO that the federal government should evaluate state lottery regulations and encourage states to develop and adopt effective regulations."

COMMISSIONER WILHELM: If I may.

CHAIR JAMES: Oh, certainly. Commissioner Wilhelm.

COMMISSIONER WILHELM: I’m sorry. I didn’t know what the procedure was here.

I don’t think this makes any sense. I think the federal government has no demonstrated capacity to do the job being assigned here. We have other recommendations to the effect that states should figure this stuff out. We’re trying to give some guidance.

I don’t know who in the federal government would do this. There’s no expertise there that I’m aware of.

COMMISSIONER LEONE: Kay, I agree with John. I also think that maybe when we bring one up, we should see if there is a Commissioner who still wants the parent of the recommendation because sometimes I think these things were captured in oral discussion --

CHAIR JAMES: Many of them were.
COMMISSIONER LEONE: -- in the flow and, you know, actually on paper in this form.

CHAIR JAMES: Well, remember the process is it must be moved. If it’s not moved and it’s not seconded --

COMMISSIONER LEONE: All right.

CHAIR JAMES: -- and it has not been, so we don’t necessarily need to have a discussion.

COMMISSIONER WILHELM: Richard, if no one claims parentage, is it an orphan or a bastard?

(Laughter.)

COMMISSIONER LEONE: John, I’m a liberal Democrat. They’re all good children to me.

(Laughter.)

COMMISSIONER WILHELM: Touché.

CHAIR JAMES: Oh, yes, the cameras are on today.

Commissioner Dobson.

COMMISSIONER DOBSON: I'm not prepared to move that we accept this, but I sure would like to hear the rationale of wherever the notion came from.

CHAIR JAMES: Well, unless there is a motion, and I think I'm going to have to be very rigid about this in order to get us through the process, we cannot discuss them unless there is a motion before us, and at this point there is no unless you'd like to move it and have it seconded.

Hearing none, number five.

COMMISSIONER LEONE: That may have been recommended by somebody before we had to deal with those agencies. So --

(Laughter.)

CHAIR JAMES: "The Commission recommends to state governments and the federal government that states are best
equipped to regulate gambling within their own borders with two exceptions: tribal and Internet gambling."

COMMISSIONER BIBLE: Well, I would move the recommendation. That’s been the historical pattern throughout the United States. I think that was the earlier finding of the 1976 --

CHAIR JAMES: So are you moving this?

COMMISSIONER BIBLE: I would.

PARTICIPANT: Second.

CHAIR JAMES: It’s been moved and seconded. We are now ready for discussion.

COMMISSIONER DOBSON: Madame Chair.

CHAIR JAMES: Commissioner Dobson and then Commissioner Wilhelm.

COMMISSIONER DOBSON: Three, point, five spells out two exceptions with regard to tribal and Internet gambling. In 3.26, there is a proposal that we made that whenever two or more states are within 50 miles of a gambling facility in a bordering state, that there be a compact arrangement. I think it’s spelled out there in 3.26.

So those have to be --

CHAIR JAMES: Balanced.

COMMISSIONER DOBSON: -- balanced.

CHAIR JAMES: Certainly.

COMMISSIONER DOBSON: And I think my proposal would be that 3.5 include that third exception.

CHAIR JAMES: Who made the motion?

COMMISSIONER BIBLE: I made the motion.

CHAIR JAMES: Okay. You would have to accept that as a friendly amendment to your motion.
COMMISSIONER LEONE: May I make a comment? I think the way it’s friendliest from your point of view, Bill, is that the federal government would be involved when states agree to develop a compact because a compact --

COMMISSIONER BIBLE: Well, I didn’t necessarily agree that it should be mandatory that compacts are developed in those situations, and there’s a provision that any compact between states has to be ratified by the Congress.

COMMISSIONER LEONE: Has to be ratified.

COMMISSIONER BIBLE: And that’s a constitutional provision. So it would tend to follow if you do the other recommendation that there would be a federal role. I think the federal role that’s addressed here is more active in terms of regulation, not in terms of the approval process.

CHAIR JAMES: So, Jim, will you hold that one and we’ll discuss that one when we get there?

COMMISSIONER DOBSON: Sounds fine.

CHAIR JAMES: Commissioner Wilhelm.

COMMISSIONER WILHELM: I support the thrust of this recommendation, but it gives rise, as did an earlier one, to a question of process that I’m still a little puzzled on.

Suppose that we adopt 3.5. Separate and apart from Jim’s interstate compact point, separate and apart from that, there are, I think, some other recommendations in here that are quite similar to this. By adopting, let’s say, 3.5, if the majority does, are we precluding the possibility of trying to integrate these things?

CHAIR JAMES: No, we’re not, John, and we talked a little bit about that before we got started this morning just in terms of if that, in fact, happens, we have the ability sitting
right here later in the day to say, "You know, that one looks remarkably like one we did this morning. This language is a little better. Can we combine them?"

And of course, we have the ability to do that.

COMMISSIONER BIBLE: But I think John’s question is later on if we have a recommendation, for instance, there’s a recommendation that the federal government become involved in treatment programs in the event the states don’t act; would we then take this recommendation and comport it or conform it with that recommendation if we act on that, and I think the answer has to be yes.

CHAIR JAMES: Of course we can.

COMMISSIONER BIBLE: We have to make the whole thing flow.

CHAIR JAMES: Of course we can.

COMMISSIONER WILHELM: So does it follow from that, Kay, again on procedure, that while the Commissioners are adopting the concept here, to the extent that other recommendations bear on this one, we’re not necessarily adopting every word?

CHAIR JAMES: The specific language, that’s absolutely correct because we may have the five recommendations, and in our attempt to make this a more readable, usable document, we may want to fold them into one, and if that’s the Commission’s pleasure, we can certainly do that.

COMMISSIONER WILHELM: Okay.

CHAIR JAMES: Which will then necessitate some word changes.

COMMISSIONER WILHELM: Okay. Thank you.

CHAIR JAMES: Number six.
PARTICIPANT: Wait.

CHAIR JAMES: Did we do that? We didn’t do that.

Let’s vote on that one.

Any further discussion on 3.5?

(No response.)

COMMISSIONER LANNI: Move the question.

CHAIR JAMES: All in favor.

(Chorus of ayes.)

CHAIR JAMES: Any opposed?

(No response.)

CHAIR JAMES: Any abstentions?

(No response.)

CHAIR JAMES: Hearing none, number six. "The Commission recommends to states with lotteries that state lotteries should not be allowed to move to casino styled games, especially since lottery outlets are widespread throughout most communities."

That’s an interesting one.

COMMISSIONER McCARTHY: Madame Chair.

CHAIR JAMES: Commissioner McCarthy.

COMMISSIONER McCARTHY: I don’t know if one of the members of the Commission is an author of this, and they may want to address it first. If not, I have a --

CHAIR JAMES: Well, the first thing is we need a motion to adopt. Before we have any discussion, is there a motion to adopt?

COMMISSIONER McCARTHY: Well, you tell me how to do this. I wanted to put in a few words clarifying what we mean by "casino styled games."
COMMISSIONER BIBLE: Well, I believe it’s Dr. Dobson’s recommendation, and we --

COMMISSIONER DOBSON: I believe it was.

COMMISSIONER BIBLE: -- we had discussion of this at the reporting writing subcommittee some two months ago.

CHAIR JAMES: Some time ago.

COMMISSIONER BIBLE: And I think the intent was that they have games that the determination -- that it be limited only to games where the determination is made by a central computer and not by an individual random number generator at various locations, which would preclude all of those instant lottery type games.

I believe that was your intent.

COMMISSIONER DOBSON: It was, and again, I think at the time that I talked about this, I referred to living next to a pari-mutuel facility that was within a block or two of my house, and we talked about that.

CHAIR JAMES: Jim, would you like to change the wording in that and offer it as a recommendation?

COMMISSIONER DOBSON: I’m not sure what you mean. "The Commission recommends to states and lotteries"?

CHAIR JAMES: Well, I think the confusion is over casino styled games.

COMMISSIONER BIBLE: Let me refresh your memory. At the Research Subcommittee, you had this particular recommendation, and your concern was in the lotteries, not pari-mutuels, but in the lotteries that a lot of these games replicated slot machines because they have random number generators contained within the device, and that the outcome is determined right at that point of purchase instead of a lottery
where you have a continual series of ticket sales, and then the outcome is determined after a period of days or weeks or months in terms of a draw.

CHAIR JAMES: And so to have it accurately reflect what it is you’re after.

COMMISSIONER McCARTHY: Madame Chair, well, may I suggest this?

CHAIR JAMES: Certainly.

COMMISSIONER McCARTHY: Why don’t we give staff a chance to write some language reflecting what Commissioner Bible just said, and perhaps we could show that to Commissioner Dobson and then return to this at some point at the end of this chapter or whenever you say?

CHAIR JAMES: I think that’s appropriate, and as I said in the opening, when appropriate we can table a particular recommendation if it needs further work or if we want to discuss it further later on. That would be an appropriate candidate for that.

Commissioner Wilhelm.

COMMISSIONER WILHELM: As long as somebody’s going to wordsmith this one, I understand, I believe, the purpose of the phrase "especially since lottery outlets are widespread throughout most communities." I think the notion was that, you know, since convenience stores, for example, and so many nooks and crannies of every community sell lottery tickets, therefore, if they put slot machine styled things into those convenience stores, that’s not a good thing, and I would personally agree with that.

However, I’m not sure that that phrase is constructed to really capture what’s going on here because it is not only in
existing lottery ticket sales outlets that these electronic lottery outlets appear.

For example, in California, the lottery run electronic keno that has showed up in bars and restaurants throughout the state, even if those bars and restaurants don’t sell lottery tickets. So I think that while I understand the point of that phrase, that perhaps it could be reworked a little bit to bear in mind that it isn’t just in existing lottery outlets, but in all kinds of new places that this stuff shows up.

COMMISSIONER DOBSON: Madame Chair, give us an opportunity to put together --

CHAIR JAMES: Certainly, we will take --

COMMISSIONER DOBSON: -- some language, and if you’ll allow us, we’ll come back to it.

CHAIR JAMES: We’ll table number six and move on to number seven, 3.7. "The Commission recommends that states should ban aggressive advertising strategies that target or impact those in impoverished neighborhoods.

COMMISSIONER McCARTHY: Who’s the author of this, Madame Chair?

COMMISSIONER DOBSON: I think I maybe, and I will move that we accept it.

COMMISSIONER McCARTHY: I have, if I may, before we get -- I have just one strengthening amendment. Something to the effect "or youth anywhere."

CHAIR JAMES: Targeting youth anywhere?

COMMISSIONER McCARTHY: Targeting -- to target those in impoverished neighborhoods or youth anywhere.

COMMISSIONER DOBSON: I accept that.

CHAIR JAMES: Wait. I have not heard a second.
COMMISSIONER LEONE: I’ll second it.

CHAIR JAMES: Commissioner Leone. Now we’re ready for discussion.

COMMISSIONER LEONE: I have another small amendment, which is I think that it should read that the Commission recommends that states should ban aggressive advertising strategies, especially those, and then go on because I think we should urge the states to get away from these aggressive advertising strategies no matter what neighborhoods they’re in. They’re very misleading.

COMMISSIONER WILHELM: I don’t dispute the thrust of that. Isn’t there another one --

COMMISSIONER LEONE: There’s another one floating around.

COMMISSIONER WILHELM: -- that’s perhaps a little more fulsome.

COMMISSIONER LEONE: Well, the hard part is --

CHAIR JAMES: We can go ahead and move on this one. When we get to that one, John, if we need to substitute we can; if we need to combine we can.

COMMISSIONER WILHELM: Okay. And then I just have one linguistic bone to pick here. Again, I agree with the thrust of this, and I don’t have any problem with the word "target." I do have a problem with the parenthetical phrase "or impact" because I don’t know how anybody is supposed to distinguish between the neighborhoods that these things impact as opposed to those that they target.

COMMISSIONER LEONE: I share John’s view on that.

CHAIR JAMES: Commissioner Dobson, would you be willing to take out "or impact" so that we can move on this?
COMMISSIONER DOBSON: All right.

CHAIR JAMES: "The Commission recommends that states should ban aggressive advertising strategies, especially those that target impoverished neighborhoods or youth anywhere" is how it stands at this point.

COMMISSIONER WILHELM: And then I have one more question.

CHAIR JAMES: Certainly. Commissioner Wilhelm.

COMMISSIONER WILHELM: Was this intended to refer to lotteries?

And if so, it should say so. My assumption is that it was, but it doesn’t say that.

COMMISSIONER DOBSON: I don’t think it ought to be limited to that.

COMMISSIONER LEONE: State run games or something.

COMMISSIONER WILHELM: Well, states don’t have the right to ban other kinds of advertising.

COMMISSIONER LEONE: No, but this is state run. This is state government run. I think that’s clear.

COMMISSIONER WILHELM: Well, it doesn’t say so, but I inferred that that was the intent.

COMMISSIONER BIBLE: I inferred that also.

COMMISSIONER WILHELM: But it doesn’t actually say so.

COMMISSIONER BIBLE: But yours would be broader if it’s governmentally sponsored gaming. It would apply to tribal gaming.

CHAIR JAMES: Commissioner Dobson, would you consider language that specifically says state lotteries?

COMMISSIONER DOBSON: Yes, or state run gambling.
COMMISSIONER McCARTHY: I think that’s better, Madame Chair. Don’t limit it to lotteries. This is any state owned or run gambling.

COMMISSIONER BIBLE: Would that include tribal gambling? That’s governmental gambling.

COMMISSIONER LEONE: That’s not state.

COMMISSIONER LANNI: What other forms of state run gambling exist?

COMMISSIONER WILHELM: Well, like in Delaware they run slot machines at the tracks.

COMMISSIONER LANNI: The slot machines are privately operated. They’re not run by the states.

COMMISSIONER WILHELM: Well, they’re part of the Delaware lottery.

COMMISSIONER McCARTHY: The federal government owns the contract.

CHAIR JAMES: So that we can follow this discussion, I’m going to ask Commissioners if they will wait to be recognized.

Commissioner Dobson.

COMMISSIONER DOBSON: I’ve just been informed that Kentucky is considering now state run casinos. So it would be broader than just the lotteries.

CHAIR JAMES: All right. So the recommendation as it stands right now would read "state run gambling," and there may be a better way of saying that, and it may come up a little later.

COMMISSIONER DOBSON: Maybe "operated"?

CHAIR JAMES: Or "state operated gambling," would that be better?
COMMISSIONER McCARTHY: Owned and operated.

COMMISSIONER LANNI: Where's that going in?

CHAIR JAMES: "The Commission recommends that state operated gambling." We want "owned and operated."

Would you accept that as a friendly amendment, Commissioner Dobson?

COMMISSIONER DOBSON: I would.

CHAIR JAMES: "State owned and operated gambling" should -- let's read this again. "The Commission recommends that state owned and operated gambling" --

COMMISSIONER LANNI: States that own and operate.

CHAIR JAMES: "States that own should ban aggressive advertising strategies." There's an "especially" in there somewhere.

COMMISSIONER WILHELM: "Especially those that" --

CHAIR JAMES: "Especially those that target impoverished neighborhoods or youth."

It has been moved and seconded. Do I hear a call for the question?

COMMISSIONER LANNI: Well, I'm sorry. You dropped out the words "those and." Wouldn't it still be "targeting those in impoverished neighborhoods" --

CHAIR JAMES: Yes.

COMMISSIONER LANNI: -- rather than "impoverished neighborhoods"?

CHAIR JAMES: yes.

COMMISSIONER BIBLE: Well, the thrust of the recommendation at this point is to deal with advertising practices that are aggressive and then some examples being targeting neighborhoods and --
CHAIR JAMES: And youth.

COMMISSIONER BIBLE: -- and youth, and at least from my perspective it’s an unequal recommendation because it does not apply to tribal gaming. There’s two exemptions to the federal restrictions on advertising, and that’s tribal gaming and lottery, and it would seem to me if you’re going to ask one group to restrict and restrain their advertising practices, you ought to ask the other group to do so.

CHAIR JAMES: Are you suggesting an amendment to Dr. Dobson’s --

COMMISSIONER BIBLE: I think it should be any form of governmentally sponsored and operated gaming.

CHAIR JAMES: Commissioner Dobson?

COMMISSIONER DOBSON: Yeah, I would agree.

COMMISSIONER LANNI: Then you drop the states.

COMMISSIONER WILHELM: I would say just for the record that based on all of the testimony before the Indian Gambling Subcommittee, I don’t think that the tribes would disagree with this.

COMMISSIONER BIBLE: No, I think the excess you’re aiming at in this recommendation, at least the record would demonstrate it’s principally state lotteries, but you don’t know what’s going to happen tomorrow.

COMMISSIONER DOBSON: That’s right.

CHAIR JAMES: Are we ready for the vote?

COMMISSIONER WILHELM: So what does it say now?

CHAIR JAMES: It now says, "The Commission recommends that any form of state" -- "any form of governmental" --

COMMISSIONER WILHELM: Gambling.

CHAIR JAMES: -- "owned or operated," still in there.
COMMISSIONER WILHELM: Government owned or operated.

CHAIR JAMES: "Governmental owned or operated gambling should ban aggressive," and then it goes on from there.

Yes? Did that capture yours, John?

COMMISSIONER WILHELM: Well, in concept, but I don’t want to be nitpicky here, but shouldn’t it say the Commission recommends that state or tribal governments that own or operate gambling?

COMMISSIONER DOBSON: That would be better, I think.

COMMISSIONER BIBLE: That would be better. That’s more explicit.

CHAIR JAMES: State or tribal.

COMMISSIONER McCARTHY: Tribal and state governments.

COMMISSIONER WILHELM: Put the states first. They’re worse.

CHAIR JAMES: Right now we have "tribal or state governments."

COMMISSIONER WILHELM: Whichever.

CHAIR JAMES: And the staff will work with that to make sure that we capture the full sense of what was here.

Commissioner Lanni.

COMMISSIONER LANNI: I don’t mean to be picky, but the federal government --

CHAIR JAMES: Oh, go ahead.

COMMISSIONER LANNI: -- the federal government operates slot machines at military bases. Bill seems to think they’re not operated in the United States.

COMMISSIONER BIBLE: Not within the continental United States.
COMMISSIONER LANNI: So I don’t know if that needs to be included also or in Jim’s thought that, well, what happens now is one thing, but what may happen. I mean, what if the federal government does determine that it’s going to be operating? Why wouldn’t we want to make a recommendation to federal, state, and tribal governments, to be inclusive?

COMMISSIONER BIBLE: How about local governments? Because one of those guys will start operating something.

CHAIR JAMES: So now we have everyone, federal, state, tribal, and local.

COMMISSIONER BIBLE: How about just any form of government?

CHAIR JAMES: Any form.

COMMISSIONER BIBLE: Any form of government.

CHAIR JAMES: We’re back to any form of government.

COMMISSIONER BIBLE: Any form of governmental entity.

COMMISSIONER BIBLE: Move the question.

CHAIR JAMES: Any form of --

COMMISSIONER WILHELM: Of governmental gaming.

CHAIR JAMES: -- of governmental gaming. We don’t want to leave anyone out here.

COMMISSIONER BIBLE: And the implication here is that there is a different relationship between the government and citizens and between the commercial enterprises.

CHAIR JAMES: Certainly. So now the language is any form of governmental agency.

COMMISSIONER WILHELM: Richard, it’s only a capitalist --

CHAIR JAMES: I will move -- will someone move the question?
COMMISSIONER BIBLE: Move the question.

CHAIR JAMES: All in favor?

(Chorus of ayes.)

CHAIR JAMES: Any opposed?

(No response.)

CHAIR JAMES: Any abstentions?

(No response.)

CHAIR JAMES: Number eight, "the Commission recommends that because states tend to become dependent on lottery revenues, states should explore creative alternatives to the lottery so that policy makers will have options to consider when and if there is the desire to reduce or eliminate the lottery."

COMMISSIONER DOBSON: I will move that we accept this nomination -- I mean this recommendation so that we can amend it.

CHAIR JAMES: Is there a second?

COMMISSIONER WILHELM: Is that an announcement?

COMMISSIONER BIBLE: How do you want to amend it?

COMMISSIONER WILHELM: How do you second it before you know --

CHAIR JAMES: Before you know what the amendment is?

(Laughter.)

CHAIR JAMES: It has been moved, and it has been properly seconded.

COMMISSIONER WILHELM: You’re not replacing Mr. Bower (phonetic), are you?

COMMISSIONER DOBSON: Politics is not my bag, believe it or not.

CHAIR JAMES: It has been moved and seconded. We’re ready for the discussion.
COMMISSIONER WILHELM: That was an apt addition there at the end.

(Laughter.)

CHAIR JAMES: It has been moved and seconded. We’re ready for discussion.

Commissioner Dobson.

COMMISSIONER DOBSON: Madame Chair, on 3.8 and 3.11 -- I think it’s 3.11 -- I don’t have any problem with the substance of the two statements, but they’re poorly worded, and I have a better use of language, I think. May I read --

CHAIR JAMES: Certainly.

COMMISSIONER DOBSON: -- the suggestion for 3.8?

Again, I don’t think this changes the intent.

"The Commission has concluded that states tend to become dependent upon lottery revenues. Therefore, the Commission recommends that the several states should explore creative funding alternatives to the lottery so that policy makers will have reasonable options to consider when and if they do consider reducing or eliminating the state sponsored lottery."

The way it is written is just plain awkward to me.

COMMISSIONER BIBLE: Well, the mischief in the revision is that creative funding alternative language where you could read that as implying that you want to have them operate a casino in Alcatraz or you want to have them do something different that would still be in a gaming area.

I mean, if you want that absolutely wide open, I don’t think that’s your intent, but that’s certainly the way it reads.

CHAIR JAMES: Commissioner Leone.

COMMISSIONER LEONE: I think creative funding in the context of governmental finance has a --
(Laughter.)

COMMISSIONER BIBLE: That’s a given. That’s a given.

COMMISSIONER LEONE: That’s not a term ever used in the form of praise for what a government is doing. So I think with the same intent we probably would want to change that language to I would argue more straightforward.

COMMISSIONER BIBLE: Yeah, they should explore alternatives to using lottery revenues. There should be some other options.

COMMISSIONER WILHELM: Kay.

COMMISSIONER DOBSON: Well, that concern you expressed is also in 3.8 as it's now written.

COMMISSIONER BIBLE: That’s right, and that’s why I circled language, "creative alternatives to the lottery." I mean, I think you need to be a little bit more specific or else you’re going to be buying into whatever a state would do to replace a lottery, and that may not be what you want to do.

CHAIR JAMES: Commissioner Wilhelm.

COMMISSIONER WILHELM: I think this whole recommendation is off the track. It seems to me that it’s not the function of this Commission to get into the subject of, particularly in such a vague way that doesn’t really give anybody any guidance -- I mean what does it mean to say, "Well, you should be creative"?

I think that if we want to say various negative things about lotteries or other forms of state run gambling, that’s fine, and we’re in the process of doing that, but to sort of preach in some way that doesn’t actually provide any practical guidance to state governments that they ought to look elsewhere, if state governments conclude based on our recommendations or
based on the feelings of their citizenry or based on something else that they’re going to reduce the lottery, then obviously they’re not morons. They’re going to recognize that they’ve got to find either a substitute for that income or they’ve got to reduce their expenditures, one or the other.

There’s another recommendation back here someplace that tells them they ought to go raise money some other way, which I don’t believe is our function as well. Maybe they’re going to decide to cut.

So I think this whole recommendation is irrelevant. I have no problem with saying negative things about state run gambling, and we’re going that, but I do have a problem with giving some general sort of preaching statement to the states.

CHAIR JAMES: Commissioner Lanni.

COMMISSIONER LANNI: I agree with John. I think we lose our impact if we’re going to make such nebulous recommendations. I mean if the --

COMMISSIONER McCARTHY: If it’s our intent, Madame Chair --

CHAIR JAMES: Excuse me.

COMMISSIONER LANNI: I wasn’t quite finished.

COMMISSIONER McCARTHY: Oh, I thought you were.

COMMISSIONER LANNI: No that’s all right. You’re used to interrupting. It’s all right. That’s the advantage of having been a former Speaker.

COMMISSIONER McCARTHY: But remember the operative word there is "former."

CHAIR JAMES: Commissioner Lanni.

COMMISSIONER LANNI: The issue, I think, is we do literally diminish our positioning when we’re making
recommendations. If the proposer had specific recommendations as to alternatives, I think those would be well worth considering, but again, I share John’s views on this.

CHAIR JAMES: Commissioner Leone.

COMMISSIONER LEONE: I think this recommendation or a recommendation in this area is strongly rooted in our findings about lotteries and about how regressive they are and about how little evidence there is that they lead to increases in spending where they are claimed to lead to increases in spending.

And I think the best way to deal with that is for us to be straightforward and indicate that we see little evidence that this is a desirable source of revenue for states and we urge states to move away from it and leave it that.

How they do it, what they do about it, or whether anybody pays any attention or whether it becomes a political issue, as you know, I have some crackpot schemes along these lines that didn’t go anywhere.

But I think that we are in agreement that this is a lousy way to raise money, and that states ought to move away from it.

CHAIR JAMES: Commissioner McCarthy.

COMMISSIONER McCARTHY: Madame Chair, I was just going to say I think this is one of those that if our friend Mr. Dobson, Dr. Dobson, Commissioner Dobson, doesn’t mind that we pass temporarily for some further consideration down the line.

COMMISSIONER DOBSON: Well, I think we ought to discuss it, and I really like what Richard said, that we don’t tell them how to accomplish this, but the whole purpose of that recommendation is to express concern about the dependence of states on the lottery and that they ought to move away from it.
CHAIR JAMES: Commissioner Wilhelm.

COMMISSIONER WILHELM: There's another one of these that, I think, points up the lack of wisdom at least to me of going down this particular road that 3.8 goes down. It's 3.39. It says, "The Commission recommends that state and local governments grant relief to taxpayers through reductions in the present size and cost of government through a restructuring privatization and other efficiencies prior to considering lotteries."

Now, frankly, I don't think that the average state is particularly interested in the views of nine people who convened to study gambling about whether they should privatize, for example. So I think these kind of things are going to diminish our impact if we're going to have any impact anyway by going way far afield of what we're allegedly qualified to recommend upon.

CHAIR JAMES: You wouldn't begrudge a good Republican for trying thought, would you?

COMMISSIONER WILHELM: I don't mean to disagree with this particularly. I just don't know where it comes from in terms of our mandate.

CHAIR JAMES: Certainly. Why don't we do this? Commissioner Dobson, could I ask that we table this one, see if we can work on some language that could probably bring us all to the table, and maybe table it for a little later?

COMMISSIONER DOBSON: I accept that.

CHAIR JAMES: Okay. Three, point, nine, "the Commission recommends" -- so 3.8 has been tabled.

Three, point, nine, "the Commission recommends to states with pari-mutuel gambling that they should restrict wagering at racetracks to those who are at least 21 years old."
COMMISSIONER BIBLE: Well, I’ll move the question, but I believe it should be broader. It should be all forms of gambling.

COMMISSIONER WILHELM: Isn’t there a better one in here someplace?

COMMISSIONER BIBLE: There is a better one.

COMMISSIONER WILHELM: Somewhere in here I think there’s a broader one on this subject.

COMMISSIONER LANNI: There is the one relative to allowing on the facilities, but not in the wagering areas.

COMMISSIONER WILHELM: Well, there’s that one. Isn’t there an even broader?

COMMISSIONER LANNI: There may be three. I know there are two.

CHAIR JAMES: Why don’t we do this? Why don’t we act on this one? When we come up to that one a little later on, if we need to, we can replace it; we can add to it; we can amend it. This one is before us right now. Do I hear a motion?

COMMISSIONER McCarthy: Madame Chair, if I understand, Commissioner Bible’s recommendation, I second if it’s a motion that the 21 year old limit allowing gambling apply to all forms of gambling, whether state sponsored or private sector sponsored.

COMMISSIONER BIBLE: That would be my intent.

COMMISSIONER McCarthy: At any governmental level and in the private sector.

COMMISSIONER BIBLE: And any form of gambling, broad based.

COMMISSIONER LANNI: I think that can be accomplished, and I would propose an amendment to delete the word or the term "pari-mutuel" and "at racetracks." I think that accomplishes it.
COMMISSIONER BIBLE: Well, the recommendation has to be to other than states. It also has to be to tribal governments because they determine those age criteria.

COMMISSIONER McCARTHY: Federal government.

COMMISSIONER BIBLE: Federal government.

COMMISSIONER McCARTHY: Now or in the future.

COMMISSIONER BIBLE: Wherever gambling is operated.

CHAIR JAMES: So we would pick up the same language that we used before in terms of all -- any form of -- well, any government entity or any form of gambling? Who are you recommending this to?

COMMISSIONER BIBLE: No, well, the controlling authority will typically be the state where the states will set the age for gambling either at the pari-mutuel facilities, if they are casino facilities.

COMMISSIONER WILHELM: Or the tribes.

COMMISSIONER BIBLE: Well, but if it’s tribes, it will either be set through negotiations in the compacting process with the state and tribes or in some cases the tribes may be operating gambling without compacts where they would make those establishments.

So the recommendation needs to go to whoever is the appropriate level of government to set those age limits so that they’d be 21.

COMMISSIONER WILHELM: Why don’t we just say that we recommend that gambling be limited to people who are 21 and older?

COMMISSIONER BIBLE: That’s fine. That’s straightforward.
COMMISSIONER WILHELM: We don’t need to get into the definition of authority.

COMMISSIONER LANNI: Madame Chair.

CHAIR JAMES: Commissioner Lanni.

COMMISSIONER LANNI: Maybe the motion would be "the Commission recommends that all legal gambling should be restricted to those who are at least 21 years of age."

CHAIR JAMES: Did you all get that? "The Commission recommends that"?

COMMISSIONER LANNI: "That all legal gambling should be restricted to those who are at least 21 years of age," and I would put "years of age" in also.

COMMISSIONER DOBSON: For the record, Madame Chair, 3.49 is the other item that deals with this, and you know, I think you indicated that we can consider related recommendations later, but we can save ourselves some time if we are willing to --

COMMISSIONER McCARTHY: Move the question.

COMMISSIONER DOBSON: -- bring those together.

CHAIR JAMES: Well, the question has been called. So we have to vote on this particular one.

COMMISSIONER WILHELM: And are we voting on Terry’s last formulation?

CHAIR JAMES: We are voting on Terry’s last formulation. Terry, would you repeat it one more time for the record?

COMMISSIONER LANNI: "The Commission recommends that all legal gambling should be restricted to those who are at least 21 years of age."
CHAIR JAMES: The question has been called. All in favor.

(Chorus of ayes.)

CHAIR JAMES: Any opposed?

(No response.)

CHAIR JAMES: Any abstentions?

(No response.)

CHAIR JAMES: Jim, I don’t think that’s particularly problematic because when you get over to that other one, it really has -- 3.49 has more to do with should not be permitted on the grandstand or gambling viewing area. So that’s a little more specific, and we can vote on that one at that time.

COMMISSIONER DOBSON: I’m really talking about the broader procedural question. If something comes up over and over, it seems like a waste of time to me to deal with them one at a time. If they all relate to the same issue, we ought to bring them together, but that’s your call, Madame Chair.

CHAIR JAMES: Well, I’m afraid we may miss something if we try to start combining. I would love to do that.

COMMISSIONER BIBLE: But downstream --

CHAIR JAMES: Yes.

COMMISSIONER DOBSON: We can combine the two when we talk about them.

CHAIR JAMES: Yes. That was 3.9. We’re now to 3.10. "The Commission recommends to states with pari-mutuel gambling that they should discourage pari-mutuel facilities from expanding with new forms of gambling and should inform the public that any such expansion would essentially create a casino-like facility."

COMMISSIONER McCARTHY: Question of whoever’s the author of this. The words "should discourage" are perhaps -- I
don’t understand them. The states have the authority to allow or reject by statute. So if we’re going to enact this, I think we simply want to say that states should refuse to allow pari-mutuel facilities to offer new forms of gambling.

COMMISSIONER WILHELM: I would like to suggest that 3.50 is a much better approach to this issue than is 3.10. The reason I think it’s a better approach is because I think it well defines the choice that a state would be making.

CHAIR JAMES: Certainly. I have not heard a motion on this one. It could die a quiet death.

COMMISSIONER WILHELM: Like some of the tracks.

CHAIR JAMES: Three, ten.

COMMISSIONER McCARTHY: Yeah, I would just to allow a little flexibility, Madame Chair, I would not favor 3.50 because it, in effect, does the reverse. It allows racetracks to have casino styled gambling. It leaves it wide open. There’s a basic issue here of whether or not the special position of horse racing in America -- and I think there’s some merit to that -- that it is an American tradition that is worth preserving and doing a number of things to help. Whether or not we really begin to blur that argument --

CHAIR JAMES: Well, what --

COMMISSIONER McCARTHY: -- destroy that argument by allowing casino style gambling.

CHAIR JAMES: To keep us on track, what I need at this point then is for someone to move 3.10.

COMMISSIONER McCARTHY: I’ll move 3.10.

CHAIR JAMES: Do I hear a second?

COMMISSIONER DOBSON: I second.
COMMISSIONER McCarthy: With the language change that I proposed?

CHAIR James: It has been moved and seconded. Now we can accept amendments. Would you like to do an amendment to the language, Commissioner McCarthy?

COMMISSIONER McCarthy: Yes, please. That the Commission recommends to states that they -- well, let’s see.

CHAIR James: "Should refuse" is what you said.

COMMISSIONER McCarthy: They should refuse to allow pari-mutuel facilities to offer other forms of gambling other than horse racing.

COMMISSIONER Bible: And you want to support that amendment to save the industry, to keep the purity of the horse industry --

COMMISSIONER McCarthy: Yes.

COMMISSIONER Bible: -- so that they don’t have their tracks cluttered up with --

COMMISSIONER McCarthy: I believe that argument has validity, and you’ll recall the testimony we heard in Delmar. There was a panel of six people. Half of them argued against putting slot machines at racetracks, and the other half said, "Gee, it may be necessary."

COMMISSIONER Bible: To me this is a zoning question. It seems to me if a state is going to determine to expand legalized gambling at a racetrack where you already have wagering opportunities available and gambling opportunities available, it’s a logical place to allow it should the state choose to do it.

COMMISSIONER Wilhelm: Again, I think 3.50 is a much better formulation of what a state ought to think about.
CHAIR JAMES: Well --

COMMISSIONER WILHELM: Again, I think it encompasses Leo’s point. So for that reason I would oppose 3.10.

CHAIR JAMES: At this point we have a recommendation before us, and I want to make sure that we understand exactly what it says: that the Commission recommends to states with pari-mutuel gambling that they should refuse to allow pari-mutuel facilities from expanding with new forms of gambling and should inform the public that any such expansion would essentially create a casino-like facility.

Commissioner Lanni.

COMMISSIONER LANNI: It would seem to me in our famous five-to-four vote at the last meeting when we talked about the M word, the moratorium, that that would cover this particular matter, and to go further, I think it’s further than we really should.

These are state’s rights issues, in my opinion, and realize we’re making recommendations to the states, but I think it really flies in the face of the moratorium vote. The moratorium vote was to stop, take a look, and evaluate what you’re doing before you want to bring any forms of gaming.

In addition, there are a number of states that already allow this. The State of Delaware is one. There are others that have afforded other people the opportunity for this, and now to say that it should be restricted for others I think is a major infringement upon people’s rights.

CHAIR JAMES: Commissioner Leone.

COMMISSIONER LEONE: I think there’s a lot of logic to what Terry says. On the other hand, I think that a majority of the Commission want to take the position that based on the
evidence, the testimony we’ve had and the way we’ve discussed this and the way we’ve thought about it, that we would recommend that states not see the introduction of machines or other style gambling as something they need to do in order to save horse racing.

And I actually think 3.50 is a better alternative because it also allows for the fact that if the state has legalized casinos and they, in effect, want to have one where there’s a racetrack, I can’t say that’s a bad decision versus having one somewhere else if they’re going to go ahead and do it, but that they shouldn’t be creating expanded gambling opportunities simply to subsidize horse racing, which is a point that I think we want to make explicitly.

And that carries right logically in a sense, but if we want to make the explicit point, I think we have to make it or it’ll never get noticed.

COMMISSIONER McCARTHY: I said in the testimony at Delmar, Madame Chair, to one of the witnesses, "Why don’t you have your racetrack apply for a casino license if that’s what you want to be?"

I was asking what percentage of your revenues -- as a matter of fact, it might have been in your subcommittee, Bill, when we were hearing from the folks at Churchill Downs and News Corporation, Mr. Murdoch and AT&T and those folks that have come together for betting from home and so on. I was trying to find out whether betting from home would eventually be linked to not just bets on horse races, but possible bets on slot machines or video poker or other things, as well, something that troubles me very, very much.
So I think some lines of definition -- if the racetrack’s ownership wanted to apply for a casino license, that’s fine. It’s a straightforward question, and it can be debated on that ground, but there is one set of policy justifications for helping horse racing as an industry, and by allowing casino stock gambling there with the rationale that that’s what we need to save the horse racing industry I think really begins to destroy those lines.

COMMISSIONER BIBLE: Well, I think --

CHAIR JAMES: Excuse me just a minute, Commissioner Bible.

Commissioner McCarthy, the problem, however, is that in this particular recommendation as it stands, it would say the Commission recommends to states with pari-mutuel gambling that they should refuse to allow. It doesn’t say that they have the option of applying for a casino license.

And with that, I’ll turn to Commissioner Bible.

COMMISSIONER McCARTHY: I certainly didn’t intend to preclude them from doing that.

COMMISSIONER BIBLE: What you in effect are saying is refuse to allow that activity at the track regardless of whether they apply for a license or whatever, and I think what you want to do --

COMMISSIONER McCARTHY: Fine.

COMMISSIONER BIBLE: -- is make a --

COMMISSIONER McCARTHY: We can have someone write the words of art. That’s not -- if they want to apply for a casino license in a state that permits casinos and become a casino operation instead of a horse racing operation, I’m not raising any objection to that.
COMMISSIONER BIBLE: I think what you want to make is a finding that we don’t subscribe to the argument that you need to convert your track to a casino in order to survive economically. I think that’s what you’re saying.

COMMISSIONER WILHELM: Isn’t that what 3.50 says?

COMMISSIONER BIBLE: Three, five, oh would say something like that. This one does not.

COMMISSIONER DOBSON: And I’ve got problems with 3.50. So I agree we should wait until we get there.

COMMISSIONER LEONE: I think 3.50 is easier to amend though.

COMMISSIONER BIBLE: Well, we need to do something with this.

CHAIR JAMES: May I suggest we table 3.9?

COMMISSIONER McCARTHY: Madame Chair, may I make a suggestion?

CHAIR JAMES: Commissioner McCarthy.

COMMISSIONER McCARTHY: I’m going to withdraw my motion. I just heard Mr. Leone say he thinks that 3.50 might be easier to amend when we get there and work with it. So I’ll withdraw my motion on 3.10.

CHAIR JAMES: So the motion has been withdrawn.

COMMISSIONER LANNI: Does the second have to agree with that?

CHAIR JAMES: Yes. I want to know if --

COMMISSIONER DOBSON: I will accept that.

CHAIR JAMES: We will accept that. So that one has died.

We’ll go to 3.11. "The Commission recommends to states with convenience gambling, such as video poker terminals in
neighborhood stores, because they provide fewer economic benefits and higher social costs that more traditional forms of gambling that states should adopt a moratorium on the spread of convenience gambling."

Terry, there’s that M word.

COMMISSIONER LANNI: I know.

CHAIR JAMES: Commissioner Dobson.

COMMISSIONER DOBSON: Madame Chair, this is the same situation where I will move that we adopt it in order to discuss it and make another recommendation.

CHAIR JAMES: Is there a second?

COMMISSIONER MOORE: Second.

COMMISSIONER McCARTHY: May I?

CHAIR JAMES: Commissioner McCarthy.

Commissioner Moore seconded. So we have a second and we’re open for discussion.

COMMISSIONER McCARTHY: Could I ask a question?

CHAIR JAMES: Yes, Commissioner McCarthy.

COMMISSIONER McCARTHY: We’re on 3.11?

CHAIR JAMES: We’re on 3.11.

COMMISSIONER McCARTHY: This pertains to states with convenience stop gambling. What about states that don’t have it yet but may initiate it?

CHAIR JAMES: Commissioner Dobson, would you be willing to change that to the Commission recommends?

COMMISSIONER DOBSON: But before we begin to --

CHAIR JAMES: Wordsmith it?

COMMISSIONER DOBSON: Yes, restate this, may I read the suggestion --

CHAIR JAMES: Absolutely.
COMMISSIONER DOBSON: -- for the same thing said in different ways? At least I think it’s the same thing. When you all get through with it, it may be very different.

(Laughter.)

COMMISSIONER LANNI: You’ve noticed that.

COMMISSIONER DOBSON: Yeah, yeah, and by the way, if nominated, my platform will be the elimination of all gambling. I wanted you to understand that.

(Laughter.)

COMMISSIONER WILHELM: Just that?

COMMISSIONER DOBSON: Yeah.

COMMISSIONER WILHELM: That’s the only issue?

COMMISSIONER DOBSON: And John is going to be my VP, right?

(Laughter.)

CHAIR JAMES: Jobs, more jobs.

COMMISSIONER WILHELM: There’s got to be a broader platform than that.

COMMISSIONER DOBSON: I’ve got a few other things in mind. I’ll talk to you about them.

The Commission has found that convenience gambling outlets, such as video poker terminals in neighborhood stores provide few economic benefits and generate higher social costs than the traditional forms of gambling. Therefore, the Commission recommends that states adopt a moratorium on the approval of additional convenience gambling facilities.

There’s the M word.

COMMISSIONER BIBLE: Do we have anything in our record that indicates there’s higher social costs in that form of gambling than other forms of gambling? I don’t know.
COMMISSIONER MOORE: I believe we heard some testimonies.

COMMISSIONER BIBLE: Higher social costs in terms of convenience gambling than other forms of gambling?

COMMISSIONER MOORE: I think the greatest incidence of problem came out of the people that were interviewed in the patron survey at tracks.

COMMISSIONER LANNI: It did.

COMMISSIONER WILHELM: Yeah, except that wasn’t a statistically valid sample.

COMMISSIONER BIBLE: But if you’re going to make a recommendation, you have to rely on something, I think.

CHAIR JAMES: Commissioner Wilhelm.

COMMISSIONER WILHELM: I apologize if I am being repetitive here. I was listening to another point.

I agree that our record shows that there are fewer economic benefits from so-called convenience gambling than there is from at least destination resorts which is involved in some other recommendations.

Intuitively it makes sense to me that there may be higher social costs from convenience gambling, but my question is whether our records demonstrate that.

If that’s repetitive, I apologize.

COMMISSIONER BIBLE: Well, it would seem to me we ought to take this issue and roll it globally into a number of issues because we talk later on about recommending destination resort type facilities and things of that nature, and we ought to come out with one big recommendation in the area as to the nature and type of gambling that we think is more appropriate than other forms of gambling.
COMMISSIONER DOBSON: Madame Chair, the question has been raised as to whether or not there was evidence to support this one. I think we can fine it. We’re going to have to take a little while to locate it, but I believe we’ve heard that.

CHAIR JAMES: Would you like to table that one, Jim, and come back to it?

COMMISSIONER DOBSON: Okay.

COMMISSIONER LEONE: Let me just make one last point on this. The record is important, but it’s not sacred text. When the logic of a point or an argument leads us into a particular direction, I don’t think we should be afraid to follow logic. We follow our feelings on other things.

The logic of the spread of gambling into neighborhoods and into homes electronically is that it will lead to more gambling and across a broader spectrum of gamblers.

COMMISSIONER BIBLE: No, and that’s what I was saying earlier. I think we --

COMMISSIONER LEONE: And I think there are going to be ways to say that, and I agree. I think these recommendations we might want to cluster around the subject of what we see logically as the relative difference between a variety of different kinds of gambling opportunities that we have over the United States.

COMMISSIONER BIBLE: And I think that makes sense.

CHAIR JAMES: And we’ll see if we can figure some way of clustering those.

Commissioner Wilhelm.

COMMISSIONER WILHELM: I agree with Richard’s point. I would say, however, that where we’re proceeding on logic as opposed to record, we ought to make that clear.
This particular formulation is a flat statement, and it seems to me if we’re going to make a flat factual statement, we need to have a record. I’m not opposed to saying things that we believe to be logical.

CHAIR JAMES: Yeah, and as we work through this, the language that you may see come back may seem to say something like, "In the opinion of this Commission," as opposed to based on the NORC Table No. 571.

COMMISSIONER DOBSON: State it isn’t so.

CHAIR JAMES: But it has been tabled, and we will continue to work through that one.

Three, twelve.

COMMISSIONER LEONE: I’d just like to say to those of you watching, this is why sausage factories are not open to the public.

(Laughter.)

COMMISSIONER BIBLE: It’s quarter to ten, and we’re just turning the page.

CHAIR JAMES: We’ve got a lot of work to do.

"The Commission recommends to state governments and the NCAA that because sports gambling is popular among adolescents and sometimes acts as a gateway to other forms of gambling that the NCAA, together with state governments, should fund educational and prevention programs designed to help the public recognize the distinction between legal and illegal sports gambling and the seriousness and consequences of illegal sports gambling.

"Further, the Commission recommends that this effort should include more public service announcements especially during tournament coverage."
COMMISSIONER MCCARTHY: Who’s the author of that?

CHAIR JAMES: This came out of consensus language.

There isn’t a specific.

COMMISSIONER MCCARTHY: Let me ask a question, if I may. If the basic thrust of this, considering the NCAA correspondence and testimony, is to raise a deep concern about the pervasive growth of gambling among young people on high school and college campuses, I’m not sure I understand how the language fits. "The public recognized the distinction between legal and illegal sports gambling." What does that have to do with that basic point?

It’s certainly appropriate to point out that a very high percentage of all sports gambling is illegal.

COMMISSIONER BIBLE: Probably 99 percent of it.

COMMISSIONER WILHELM: Well, and further -- correct me if I’m wrong, Bill. You’re our regulatory expert -- in the states where sports gambling is illegal, isn’t it illegal for adolescents?

COMMISSIONER BIBLE: Yes. They still have the same age restriction.

COMMISSIONER WILHELM: So that all adolescent sports gambling is illegal.

COMMISSIONER BIBLE: Is illegal, correct.

CHAIR JAMES: Have I had a motion to adopt? I don’t think I have.

COMMISSIONER LANNI: No.

COMMISSIONER LEONE: May I ask a question? Is this the only recommendation in this area? I’ve forgotten.

CHAIR JAMES: It is.
COMMISSIONER LEONE: So I would move it for the purposes of discussion and change. We need a recommendation in this area, I think.

CHAIR JAMES: Do I hear a second?

COMMISSIONER LANNI: I’ll second that.

CHAIR JAMES: It has been moved and seconded.

COMMISSIONER DOBSON: Madame Chair.

CHAIR JAMES: Now we can discuss. Commissioner Dobson.

COMMISSIONER DOBSON: I would like to amend this recommendation as follows. Go down to Line 3, gateway to other forms of gambling, "that the NCAA, along with state governments, should fund educational and prevention programs designed to," and cut there and eliminate the rest of the statement and add this: "warn adolescents and college students of the dangers of sports gambling.

COMMISSIONER MOORE: I would second that, and being an old high school coach and knowing how much America loves sports, I believe that we need to say something to the American people about the amount of gaming. They already know this, but it wouldn’t hurt for a national Commission to bring this to their attention, and maybe it would get a few people’s attention, not all of course, but any number would help.

CHAIR JAMES: The seconder of the motion accepts your amendment, Dr. Dobson.

COMMISSIONER DOBSON: Fine.

CHAIR JAMES: Yes, Commissioner Lanni.

COMMISSIONER LANNI: Are you going to vote on the amendment or just leave it the way it is?

CHAIR JAMES: We’re just going to leave it the way it is.
COMMISSIONER LANNI: Then I have one other point. At
the Commission at Virginia Beach, I raised the issue with the
NCAA, which was not included in this recommendation, that I
thought they should have, and I really do believe this should be
amended, and I don’t have the verbiage now, but I think it should
basically state that the NCAA has the responsibility of having
each of its member universities and colleges enter into an
agreement as to what kind of a program they would have and have
some kind of enforcement of that and disciplinary action if they
didn’t because I think we’re taking the universities and colleges
off the hook here, and that’s wrong.

COMMISSIONER MOORE: I think 100 percent I agree.

CHAIR JAMES: Jim, would you mind adding that to your
motion?

COMMISSIONER DOBSON: I would agree to it. Terry, why
don’t you provide the language to add to it?

COMMISSIONER LANNI: Could we put a hold on it then?

CHAIR JAMES: Do you want to table that one while you
work on the language and we can just vote these through?

COMMISSIONER DOBSON: All right.

COMMISSIONER WILHELM: As long as somebody’s going to
look at it again. I don’t know if this other point that I had
likewise raised in Virginia Beach belongs here or in the future
research section, but I had also raised the point that it seems
to me that since most of America’s research capability resides in
universities, that they ought to do research on the question of
adolescent gambling.

CHAIR JAMES: As you work on that language, can you see
if you can include that, the research?
COMMISSIONER LANNI: Well, wouldn’t that go under the research section?

CHAIR JAMES: It could go there or it could go here.

COMMISSIONER LANNI: With the other 972 recommendations on research?

(Laughter.)

COMMISSIONER DOBSON: Is that a vail of criticism?

COMMISSIONER LANNI: No, no. I would just suspect they’re going to be raising the federal income tax rate to 50 percent to cover this cost.

(Laughter.)

COMMISSIONER LANNI: And I would be opposed to that.

CHAIR JAMES: We have too many Republicans here.

COMMISSIONER LANNI: There are never enough Republicans.

CHAIR JAMES: Let’s see. We have -- Terry, let’s go ahead and see if we can include the research one here because it’s specific to the NCAA. That one has been tabled.

We’ll move to 3.13. "The Commission recommends that"

--

COMMISSIONER DOBSON: Excuse me, Madame Chair.

CHAIR JAMES: Certainly.

COMMISSIONER DOBSON: The suggested amendment as I stated it was passed; is that right?

CHAIR JAMES: No. We tabled it so that you could work on the language to include those two points, and then we will vote on it.

COMMISSIONER DOBSON: All right. That’s good.

CHAIR JAMES: Three, thirteen, "the Commission recommends that the American Gaming Association should be
commended for its efforts so far to promote advertising controls through voluntary guidelines and should be encouraged to continue such efforts. The AGA has acted responsibly in beginning to address the needs for controls on advertising practices by publishing voluntary guidelines for casino marketing and advertising.

COMMISSIONER DOBSON: Madame Chair, where in the world did that come from?

COMMISSIONER BIBLE: The AGA, obviously.

(Laughter.)

COMMISSIONER DOBSON: They obviously have three separate statements like this.

COMMISSIONER BIBLE: I think as a policy matter we probably don’t want to start praising one group over another group. We’ve heard a lot of very fine, dedicated groups.

CHAIR JAMES: I’m just waiting to hear who’s going to make that motion.

COMMISSIONER LANNI: It hasn’t been moved. So I think we can move on.

CHAIR JAMES: It hasn’t been moved.

COMMISSIONER McCARTHY: Madame Chair, I agree with what Mr. Bible said, but I’d say there’s another area where at least a comment is appropriate, which is the $8 million put into research by the AGA, and I do have a sentence on that in the introductory text, which is not before the Commission this morning, but I agree with what Mr. Bible said on this.

CHAIR JAMES: In the interest of time, hearing --

COMMISSIONER McCARTHY: Let’s move on.

CHAIR JAMES: -- no motion, we’re going to move right on.
COMMISSIONER WILHELM: May I ask a question about the next item?

CHAIR JAMES: Yes, yes.

COMMISSIONER WILHELM: It’s just a procedural question. My recollection of 3.14 is that it was cast as a piece of text as distinguished from a recommendation. Am I right in remembering it that way?

So I was surprised to see it show up here.

CHAIR JAMES: Yeah, it was a piece of text. It was inappropriate to be here.

Let’s move on. Three, one, five.

COMMISSIONER BIBLE: You just saved about two hours.

(Laughter.)

COMMISSIONER WILHELM: We’re going to have a moratorium on discussing this matter.

CHAIR JAMES: Three, fifteen.

COMMISSIONER LEONE: Can I just make a --

CHAIR JAMES: Oh.

COMMISSIONER LEONE: No, not about this.

I think when we conclude our recommendations presumably the overview will be recast to reflect the thrust of -- important language will be retained, but I think it will be recast.

COMMISSIONER BIBLE: But certain components may be modified?

COMMISSIONER LANNI: That’s right. That’s been my point for a number of months.

CHAIR JAMES: Absolutely. Three, one, five, "the Commission recommends that all gambling operations, including tribal and non-tribal casinos, state lotteries and pari-mutuel tracks, voluntarily adopt and then follow enforceable advertising
guidelines or code of conduct. Enforcement should include a
mechanism for recognizing and addressing any citizen complaints
that might arise regarding advertisements.

COMMISSIONER BIBLE: In all deference to J.W., it would
seem to me that if you voluntary adopt it, you can’t make them
enforceable.

COMMISSIONER WILHELM: I disagree with that.

COMMISSIONER BIBLE: Really?

COMMISSIONER WILHELM: Yeah. I think a lot of
voluntarily adopted codes of conduct have enforcement mechanisms
in them. I mean just as an example --

CHAIR JAMES: Just to move this along, do I hear a
motion on that one and a second?

COMMISSIONER MOORE: I’ll make one.

CHAIR JAMES: So moved. Do I hear a second just to
bring it up for discussion?

COMMISSIONER WILHELM: I’ll second it.

CHAIR JAMES: It’s been properly moved and seconded.

Discussion now.

COMMISSIONER WILHELM: Do those initials imply that I’m
supposed to have made this recommendation?

COMMISSIONER LANNI: That’s right.

COMMISSIONER WILHELM: Well, if, in fact, I made this
recommendation, then I think it’s somewhat wrongly --

CHAIR JAMES: Worded?

COMMISSIONER WILHELM: -- worded in that it seems to me
if we’re going to go down this road, which I think we should, by
the way, that the phrase "all gambling operations" or something
of that kind is appropriate, but the phrase "including tribal and
non-tribal casinos, state lotteries, and pari-mutuel tracks" is
hardly inclusive. So it seems to me we ought to just say all
gambling operations or all gambling facilities or something like
that, and then leave out the list because the list is much longer
than that.

CHAIR JAMES: Right.

COMMISSIONER LANNI: And may I recommend that for each
instance where we have that reference that we have similar
language in different recommendations so that we’re consistent?

COMMISSIONER DOBSON: It seems a little wishy-washy to
me with regard to the voluntary aspect of this. I think there
needs to be an outside agency to provide oversight in this area.

COMMISSIONER BIBLE: Well, I think the difficulty is
going to be the state of federal law. We had quite a bit of
testimony as to ongoing litigations. The Supreme Court has just
heard arguments coming out of New Orleans. At least everybody
seems to anticipate that they’re going to overturn the bans on
advertising commercial gambling activities because of the
exemptions granted to both tribes and lotteries.

So I think if you’re going to make a recommendation,
you want to make a recommendation that presumes that that
advertising prohibition is going to be either weakened or
eliminated and have some recommendation that indicates, as this
does, that you have codes of conduct for advertising and have
truthfulness in the advertising and a number of areas like that.
A much broader and more general statement, I think, would be
appropriate.

You know, back to my original question, I do think you
have a difficulty if people voluntarily agree to some code of
conduct to make an enforceable mechanism because you don’t have a
governmental entity that can let it be fines and issue cease and
desist orders. You can kick the person out of the association, and they can get out of the association, but it becomes more difficult to enforce it.

CHAIR JAMES: I think I heard John’s "uh" before I heard your "uh." So John.

COMMISSIONER WILHELM: I certainly don’t have any -- I’m not wedded to this, if indeed I proposed it.

(Laughter.)

COMMISSIONER WILHELM: And I don’t disagree with the first half of what Bill just said. On the particular point of whether voluntary codes of conduct can be enforceable, I believe that they can. Our union, for example, has a voluntarily adopted code of ethics which has an independent board that has enforcement powers and that has actually quite draconian powers. That may not be an exact parallel, but I believe that it is possible to create a significant enforcement mechanism for voluntarily adopted codes, and the truth is, as Bill said, regardless of how we catch this thing or how broad it is or whatever, the truth is that for legal reasons I don’t know that there’s another option besides voluntarily adopted codes of conduct.

Tribes could legislate as to their own particular tribe something in this area. States could legislate as to their own particular state something in this area. I don’t believe the federal government could legislate as to the states in this area, and I think that it’s clear that very shortly the Supreme Court will make it illegal for anybody to legislate as to private entities.

COMMISSIONER BIBLE: I want to make two points. The first is I do not believe that the legal issues are settled or
are likely to be settled. I believe that all advertising about
gambling, apart from that which is about the recreation aspects,
like Wayne Newton’s going to be here, is inherently bait and
switch advertising, which is a well understood area of consumer
fraud in which someone is told they can come buy a Buick for $99.
They get there and they say, "Oh, we only had one of those Buicks
for $99. We’ve got 1,000 for $29,000. Do you want to buy one of
those?"

And I think that advertising that features winners
probably should be classified as bait and switch advertising.
That’s a personal view, not supported at this point by any
successful legal challenges, but I just want to be on the record
as saying that.

Secondly, on the question of self-regulatory behavior
and sanctions, that is well established in our society. Indeed,
in the professions, physicians, lawyers, accountants, in the
securities business, the exchanges, and the registered
representatives, the brokerage houses, all operate under codes of
conduct, including codes of conduct and, indeed, sensationally in
many cases that involve advertising and impose sanctions on their
members. Frequently you have arbitration procedures, or they
have boards or panels.

And so we have in this society a great many places
where there is no particular federal or state statute on the
books, but where the behavior of hundreds of thousands of active
people who are out trying to make a living is modified by
voluntary codes of conduct.

I’m sure Dr. Moore could talk about some of that. I’m
sure Leo or any attorney could talk about the way the Bar
functions. I could talk about the way the securities exchange is functioned.

So I don’t think that in concept this is impossible at all. I think if this isn’t John’s idea, it ought to be because I think we can make progress, and I think this ought to be attractive to the industry, going back to something we did not make into a recommendation. The industry has shown foresight about the pathological gambling. I think it should show foresight about more of this voluntary code of conduct, and in some cases it has.

So I think it’s a good recommendation. Maybe the language needs to be slightly modified, but I think it ought to be in here.

CHAIR JAMES: Can you tell us where that came up in our discussion? We want to give credit where credit is due.

COMMISSIONER WILHELM: By the way, I don’t mind being its author.

CHAIR JAMES: But if there’s better language in the discussion, we --

COMMISSIONER McCARTHY: The heart of the recommendation, Chair. Is that what you’re asking?

CHAIR JAMES: Yeah. What was the heart of it? What was the discussion?

COMMISSIONER McCARTHY: It was during the panel discussion.

MS. SPILDE: I believe this makes sense in a number of areas recommending to the commercial entities and the states with respect to their lotteries and to the tribes with respect to their gambling sections for voluntary enforceable codes of
Conduct are enforceable by those who set the voluntary guidelines with respect to advertising.

CHAIR JAMES: It seems like the heart of it is there. We may need to work on the language a little bit.

What stands before us right now for our consideration for a vote is, "The Commission recommends that all gambling operations" -- take out the language that is there -- "voluntarily adopt and then follow enforceable advertising guidelines or codes of conduct. Enforcement should include a mechanism for recognizing and addressing any citizen complaints that might arise regarding advertisements."

That’s how it stands right now.

I will go to Commissioner McCarthy and then Commissioner Dobson.

COMMISSIONER McCARTHY: I just remembered where some of this discussion occurred. When we had the panel on advertising and different representatives of the industry, we had a couple of lawyers there, and they were talking about the stream of court decisions that affected this, and as to the private sector it was one thing, and I think Mr. Wilhelm referred to this earlier.

It looks like no governmental regulation of advertising will be allowed in the future, but we also had discussion about no non -- of private sector, but we also had some discussion about the regulation of advertising by governmentally owned and operated gambling, and that was a separate issue, and the same witnesses said that there were cases that said that was permitted.

So if we’re going to consider this --

CHAIR JAMES: We are considering it.
COMMISSIONER McCARTHY: -- I think we need to have it done in two separate items, one affecting private sector, one affecting government owned and operated gambling, because --

COMMISSIONER BIBLE: That refreshes my memory because we had asked that panel to provide us, and I don’t know if they had done so, their analysis as to whether you could extend the same sort of restrictions that apply to commercial advertising to governmental advertising for lotteries and tribal gaming. I don’t remember if they provided us that or not because there are certain protections in terms of federal acts, truth in advertising, things of that nature.

CHAIR JAMES: Leo, how would that be worded if you did separate the two of them out?

COMMISSIONER McCARTHY: May I make a suggestion that this is one of those we table temporarily? Give us a chance to work on it if that’s amenable to John and everybody else.

CHAIR JAMES: Are you going to work on that language? Would you do that?

COMMISSIONER McCARTHY: I’ll work on it on the governmentally operated. I think the wording here is very close to what you want. I agree with the thrust of what --

CHAIR JAMES: But the amendment -- but it would have to incorporate both of those.

COMMISSIONER McCARTHY: Or that would be a separate item.

CHAIR JAMES: Commissioner Dobson?

COMMISSIONER DOBSON: How do we handle my amendment? Was that a motion to table?

CHAIR JAMES: He did not make a formal motion to table.
COMMISSIONER DOBSON: All right. I have a motion that I would like to make to change the language according to the voluntary issue that I raised. I don’t believe this will work without an independent agency, and I would like to change the language when we’re ready to do that.

COMMISSIONER WILHELM: Big brother again.

COMMISSIONER McCARTHY: May I just respond? I think that’s an impossible idea, Jim. I don’t think that governmental regulation of advertising, that is, free speech, is going to be allowed. I don’t know what governmental monitor you have in mind.

COMMISSIONER DOBSON: Well, I don’t --

COMMISSIONER McCARTHY: We’re talking about private sector advertising.

COMMISSIONER DOBSON: I don’t think we should presuppose what the Supreme Court is going to do. We have assumptions about that, but we don’t know what it’s going to be, and I don’t think we ought to change what we would recommend on the basis of that.

CHAIR JAMES: Jim, may I suggest there is a suggestion? I don’t know if it’s been formalized yet, that we table that one to work on the language, bring it back or would you like to go ahead and call for the vote on this?

COMMISSIONER DOBSON: I would simply like to be part of that --

CHAIR JAMES: Discussion?

COMMISSIONER DOBSON: No, that rewriting assignment.

CHAIR JAMES: Can I ask you and Leo to work on that together?
COMMISSIONER DOBSON: That'll be a stretch, but we'll work on it.

(Laughter.)

COMMISSIONER BIBLE: But also, Jim, for your benefit, I don't think you necessarily predispose what the Supreme Court is going to do, but if the Supreme Court goes one way your recommendation has no force and effect, and I think you want to craft a recommendation that may accommodate whichever way they go.

COMMISSIONER DOBSON: You know, there are many items that we're going to recommend that somebody may pass a law about. So I still think we ought to say what we think ought to be done.

CHAIR JAMES: Well, I'm going to see if you and Leo can do a good putt at that and come back to us.

COMMISSIONER WILHELM: Jim, as the third member of the Research Committee, I take exception to your statement. It's not at all a stretch for you and Leo to work together. You've done so well for a year and a half.

COMMISSIONER DOBSON: Only because you were there to mediate, John.

COMMISSIONER WILHELM: Right, yeah, sure.

CHAIR JAMES: Such wonderful negotiating skills of yours, John.

COMMISSIONER WILHELM: Yeah, right.

CHAIR JAMES: Three, sixteen, "the Commission recommends that the federal government establish a centralized informational office of some sort that would collect data on all state, local, tribal and federal gambling operations in the United States."

Now, we have the opportunity to work on that.
COMMISSIONER LEONE: I would like to suggest that we consider this information question in the context of the extensive research, additional research and reporting recommendations which are further down in the report.

COMMISSIONER LANNI: Is that a withdrawal?

COMMISSIONER LEONE: Yeah, but it clearly would --

COMMISSIONER BIBLE: But I don’t think you want to lose the notion of the concept because I think it’s important --

COMMISSIONER LEONE: No, no.

COMMISSIONER BIBLE: -- that a central agency where you can find an agency that has that information.

COMMISSIONER LEONE: That basic information. I agree, but I think it fits in however we phrase these other recommendations.

CHAIR JAMES: Leo, can I just ask you to make a note that as we go through this process if we somehow -- Richard. I’m sorry -- if we somehow miss that, that we come back to that?

COMMISSIONER WILHELM: Well, if I could just add a point to what Richard has just said, it seems to me that we ought to think about what it is we’re asking the federal government to do by way of resources. It’s fine to submit to the federal government a list of 8,412 things that it ought to do, but I think that if we make that list overly expansive, that the reality is that it isn’t going to do anything.

So I, for one, would be much more interested in thinking about recommendations that, for example, there’s one in here someplace that I think originated with you, Kay, where you suggested adding certain items to the already existing household survey. Now, that makes a lot of sense to me because that can probably be accomplished without an enormous amount of cost.
It’s adding a factor to something that the federal government already does.

To the extent that we believe that the federal government will make additional significant resources available in the area of gambling, I would think that that ought to be concentrated on two areas.

First and foremost, the question of research about problem gambling and things related to that, of which we have huge numbers of recommendations here, and secondly, functions in areas where only the federal government can do it, as an example the collection of the recommendations from the Indian Gambling Subcommittee about the collection and aggregation and publication of certain kinds of data related to tribal gambling.

So I really hope as we look at all of these that we can focus on those things that (a) only the federal government can realistically do, and (b) some reasonable stab at what the federal government realistically might actually do.

Because if we throw too many recommendations at too great of a cost here, we’re going to end up with nothing.

CHAIR JAMES: There has not been a motion. We’re moving to 3.17.

"The Commission recommends that the Congress should delegate to the appropriate federal agency the task of annually gathering data concerning lottery operations in the United States, including volume of purchase, demographics of lottery players and patterns of play by demographics, nature, content, accuracy, and type of advertising, spending regarding problem pathological gamblers, spending on regulation, and other relevant matters."

Is there a motion?
(No response.)

CHAIR JAMES: No motion?

COMMISSIONER DOBSON: NO, no. Yes.

CHAIR JAMES: It has been moved. Is there a second so we can have a discussion?

COMMISSIONER WILHELM: Ditto my last comment.

CHAIR JAMES: Okay. Is there a second?

(No response.)

CHAIR JAMES: Hearing none, we’ll move on to 3.18. Perhaps we can roll that one in and come up with one.

"The Commission recommends that states and tribes require that all gambling facilities, not just casinos, adopt formal written policies and procedures to train their respective staff members to identify and then to channel problem and pathological gamblers, customers, as well as employees to appropriate treatment facilities."

Is there a motion?

COMMISSIONER BIBLE: It makes sense. I’d move it.

CHAIR JAMES: Is there a second?

COMMISSIONER WILHELM: Second.

CHAIR JAMES: Okay. Why don’t we let the record reflect that Commissioner Bible moved and Commissioner Wilhelm seconded.

We’re ready for discussion.

COMMISSIONER WILHELM: Just a tiny stylistic point.

CHAIR JAMES: Yes.

COMMISSIONER WILHELM: Going back to what we were discussing earlier, we need some, as I think Terry pointed out, we need some consistent way of referring to the concept of all gambling facilities, and just as I didn’t think we should say
"including X, Y, and Z," because it's not exhaustive, I also am not really attracted to saying not just.

I understand the purpose of that, and it was well intentioned, but if the phrase is going to be "all gambling facilities" or if there's a better one, let's use that throughout.

CHAIR JAMES: Okay. Commissioner McCarthy?

COMMISSIONER McCARTHY: Yes. I like this. The only thing I would point out now is that we probably need to clarify what we mean by appropriate treatment facilities, and later on, Madame Chair, I do have some language that would be related to this. It doesn't necessarily contradict this. I just want to raise that point.

COMMISSIONER WILHELM: Well, on that point though, it may be that rather than saying they should channel people to appropriate treatment facilities, maybe they should say something like appropriate sources of help or something like that.

CHAIR JAMES: Appropriate treatment.

COMMISSIONER BIBLE: Make appropriate arrangements for help or something of that nature.

COMMISSIONER WILHELM: Well, you know, as an example, maybe they would be referred to either a state agency or the local National Council. Those are not treatment facilities per se, but they are sources of finding help.

CHAIR JAMES: Would not just removing the word "facilities" --

COMMISSIONER MOORE: That's what I was thinking.

CHAIR JAMES: -- take care of that?

COMMISSIONER MOORE: "Appropriate treatment," that'll do it.
COMMISSIONER McCARTHY: Yeah, this function is an extremely important one, and that’s why I’m urging that when we talk about appropriate facilities that we not leave it too nebulous or undefined, and that’s why I was hoping even if we adopt this section we could just leave open the issue of appropriate treatment facilities for further discussion down the line.

COMMISSIONER BIBLE: Well, appropriate facilities implies in-patient, and I don’t think that’s what you want to.

CHAIR JAMES: Yeah. You just want to say appropriate treatment, and if necessary, when we do the document we can say, "See so-and-so," and refer them to an appropriate place in the document.

COMMISSIONER McCARTHY: That’s fine.

CHAIR JAMES: All right. Commissioner Lanni?

COMMISSIONER LANNI: The concern I have, and philosophically I certainly support this, the concern I have is what is the capability of teaching all staff members to be able to identify problem and pathological gamblers. That’s a long, long stretch to have people do that.

I think it’s something I’d morally support, but just from a practical standpoint I’m not so sure you can train your entire staff of thousands to identify.

COMMISSIONER McCARTHY: Good point.

COMMISSIONER LEONE: I was going to raise the same point. I think it also would dilute its practical effect because a program that was designed for everybody would probably not be -- I think we’re really talking about establishing a program that creates the staff capacity to do these things. Exactly how it gets done would depend.
I mean if you’re talking about a big hotel complex, it’s one thing. If you’re talking about somebody who operates five machines in a convenience store, it’s another kind of training.

CHAIR JAMES: Commissioner Dobson?

COMMISSIONER DOBSON: No, didn’t ask.

CHAIR JAMES: Oh, okay. Is there anyone down here? It doesn’t say train all their employees, and so it’s entirely appropriate that whoever is the appropriate staff person--

COMMISSIONER DOBSON: Well, we could say appropriate staff member.

COMMISSIONER LANNI: That will work instead of respective.

CHAIR JAMES: Would that take care of it, "appropriate staff"?

COMMISSIONER McCARTHY: May I -- I’m sorry. What was the language you just -- appropriate?

CHAIR JAMES: Appropriate staff.

COMMISSIONER McCARTHY: We’re going to just cut "appropriate staff"?

CHAIR JAMES: We’re asking if you would accept that amendment.

COMMISSIONER McCARTHY: Good.

CHAIR JAMES: "The Commission recommends that states and tribes" -- well, it says "tribes." We’re going to change that language to reflect the continuity throughout the document -- "that all gambling facilities" -- we’ve excluded not just casinos -- "adopt formal written policies and procedures to train their appropriate staff members to identify and then to challenge
problem and pathological gamblers, customers, as well as employees to appropriate treatment."

COMMISSIONER McCARTHY: Madame Chair, may I just --

CHAIR JAMES: Certainly.

COMMISSIONER McCARTHY: Dr. Kelly has not distributed yet, but there is to come before you -- it’s actually part of the next chapter on gambling and addiction -- a proposal. The genesis of the idea I got from Commissioner Bible, as a matter of fact, that says the Commission respectfully recommends the tribe and state governments requires a condition of any gambling facility’s license to operate that each applicant will adhere to the following: adopt a clear mission statement as to the applicant’s policy on problem pathological gambling; appoint an executive of high rank to execute and provide ongoing oversight of the corporate mission statement; contract with a state recognized gambling treatment professional to train management staff, to develop strategies for recognizing and addressing customers whose gambling behavior may strongly suggest they may be experiencing serious to severe difficulties; routinely consult the customer profile database to monitor such patients’ gambling behavior history, and a couple more.

So it takes a total, integrated, comprehensive look at this problem, and I know we’re touching on a couple of the issues in the matter we’re on right now, but this one also would require that insurance that makes available medical treatment for problem and pathological gambling for facility employees being one of the conditions of granting or renewing a license.

Mr. Lanni and I have had a couple of conversations with this. I think he may have one or two questions about some of the language when we get to this.
CHAIR JAMES:  May I make this suggestion? Would Commissioner Dobson be willing to table this one until we get there to consider that?

COMMISSIONER DOBSON: So far we’ve got about two weeks worth of work, but I will do that.

COMMISSIONER BIBLE: We’re going to have the same problem on 3.19.

COMMISSIONER WILHELM: Yeah, same problem.

COMMISSIONER BIBLE: In fact, it’s the same issue. We probably ought to just talk about the issue.

CHAIR JAMES: Do you want to go ahead and see if we can combine all of those right now and consider this one, except the Commissioners don’t have it in front of them?

COMMISSIONER LEONE: I think 3.19 and 3.22 both are in the same area. They’re part of a package.

CHAIR JAMES: That’s 18, 19.

COMMISSIONER LEONE: Twenty-two.

CHAIR JAMES: Twenty-two?

COMMISSIONER WILHELM: I think we ought to pass this out and talk about it.

CHAIR JAMES: Leo, do you already have copies of it?

COMMISSIONER MOORE: Copies are on the way.

COMMISSIONER McCARTHY: Could we pass it for a few minutes while --

CHAIR JAMES: Can we pass on this for a few minutes while the staff gets copies?

Why don’t we then go to 3.20? So we’re going to hold in 3.18, 19 and 22 while they get copies.

COMMISSIONER WILHELM: Can I ask a question about 3.20?
CHAIR JAMES: Certainly. Well, for the purposes of the record, let me read it. "The Commission recommends that every ATM machine within any gambling facility or any facility adjoining a gambling operation should have daily cash access restrictions.

COMMISSIONER WILHELM: My question is this. I realize that once when we were walking through someplace -- I believe it was Foxwoods -- someone made the assertion that there’s ATM machines that you can get all the money in the world out of.

Forgive my ignorance. Maybe I’m not in the right income bracket or something. I thought that all ATM machines had daily limits. Is that wrong?

COMMISSIONER DOBSON: John, I think that was an extrapolation of something that I said. I observed at Foxwoods that PIN numbers were not required. Remember our talking about that?

COMMISSIONER WILHELM: Yeah.

COMMISSIONER DOBSON: And that there was a very high fee, as I recall seven percent or some such thing, for the use of those ATMs, if that’s what you’re referring to.

COMMISSIONER WILHELM: No, I’m referring to this particular recommendation. It seems to me to be sort of irrelevant if I’m right in understanding that all ATM machines have --

CHAIR JAMES: Let’s do this, John. Let’s see if anyone will move to adopt and get a second. If not, it’s a moot point to discuss it.

Is there a motion to adopt?

(No response.)
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CHAIR JAMES:  Hearing none, we will go on to 3.21. See how easy this is if we just go on?

Twenty-one, "the Commission recommends" -- well, we do have Leo’s document in front of us now. It’s the one that’s colored in blue, which it’s the first of four that he has. You will see 4.16, which I am told may have some bearing on 3.18, 19, and 20 and 22.

COMMISSIONER McCARTHY:  Madame Chair, the numbers are not consecutive, although they should be taken because Commissioner Loescher had a recommendation that’s before us that was given the number 4.17. So if you just switch 4.16 and 4.17, they will be consecutively numbered, but they should be seen together is my point.

COMMISSIONER MOORE:  Is this going to take 3.19?

COMMISSIONER McCARTHY:  Yes.

CHAIR JAMES:  Since this is new for Commissioners and they have not had a chance to read it, I’m going to ask for a five-minute recess to give Commissioners time to look at this information, and then we will come back for discussion at that point.

We stand in recess for five minutes.

(Whereupon, the foregoing matter went off the record at 10:22 a.m. and went back on the record at 10:39 a.m.)

CHAIR JAMES:  I’d like to ask the Commissioners to please come back to their seats. I hope that each of you took the opportunity during our break, to review the revision that was prepared by Commissioner McCarthy. I’m going to break the process just a little bit and, Leo, ask you to talk us through this that we have in front of us, and remind Commissioners that
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we also have the additional tally sheet so that we can keep track
with where we are. Commissioner McCarthy.

COMMISSIONER McCarthy: Thank you, Madam Chair. I
would again ask that the Commissioners see these items on the
front and back of these two pages you’ve been given, see them as
taken together.

The first one, 4.16, attempts to have some kind of
integrated, thoughtful plan which gambling facility management
would utilize. And here we are not just talking about casinos
now, we’re talking about all forms of gambling.

And as you will see as you look at the second section,
we’re not just talking about private sector gambling, we’re
talking about the same kind of rules for government-owned and
managed gambling.

An essential part of this, so that the other members of
the Commission know how this evolved, is Mr. Lanni and I had a
couple of conversations last week, and one of my concerns was
that there be some mechanism for the payment of medical treatment
to industry customers. And I’m not just talking about private
sector again, I’m talking also about government-owned and
operated gambling. And Mr. Lanni expressed deep concern out of
any requirement that private sector facilities be made to pay the
cost of gambling for customers, that that is not ordinarily done
in American industry.

So, as the conversation developed between the two of
us, Mr. Lanni suggested the gambling privilege tax. Now, it
already exists in some states, so what we are talking about here
is enacting it in those states that have not already adopted such
a tax, and then using the proceeds from that tax -- if you see
this again, taken all together, looking at 4.19 -- to contribute
those monies to a dedicated fund that would be used for the
purposes outlined in 4.19.

So, these concepts were taken together in our
conversation, and there are some word changes, I think, for
clarification that Mr. Lanni and I would both want to offer
jointly here in a minute, but that’s how this evolved. I think
it’s a very constructive proposal that touches on a number of
areas we are now discussing, in this chapter and a couple in the
next.

CHAIR JAMES: I can see that this would be very helpful
to our process if we could identify perhaps 30 or 40
recommendations that are already rolled in here --

COMMISSIONER McCARTHY: I think we will be able to,
Madam Chair.

CHAIR JAMES: -- could move right along. Could we go
ahead, before we consider this as a motion, and get your word
changes?

COMMISSIONER McCARTHY: Sure. Mr. Lanni appropriately
suggested, and Commissioner Wilhelm had earlier, that when we’re
talking about listing tribal and state governments, we simply
make that clear in several places in this language. We’re
talking about all governments.

CHAIR JAMES: So that would reflect the standard
language that we said we would adopt throughout.

COMMISSIONER McCARTHY: Yes. Also, on --

CHAIR JAMES: Excuse me just a minute. Doug, could you
take a shot at what that standard language would be, and maybe
later at some point in the day make that recommendation to us.

COMMISSIONER BIBLE: Yes. This will have to be a
little bit different because states will not license their own
lottery. That will be created by statutory amendment. I assume you want --

COMMISSIONER McCARTHY: That’s correct. That’s why if you look at 4.18, on the back of the first page, just in recognition of what you said, bill, we attempt to get at it that way.

COMMISSIONER BIBLE: Okay.

CHAIR JAMES: Could we go ahead and have your word changes, Leo?

COMMISSIONER McCARTHY: Yes. The other word change pertains to 4.19, the first line -- "Each state shall enact, if it has not already done so" --

CHAIR JAMES: I’m sorry, Bill.

COMMISSIONER McCARTHY: "Each state shall enact", and please insert the words "if it has not already done so. And Mr. Lanni also proposed on the bottom of that page, the third line from the bottom, the line that begins "Of treatment can receive necessary supports based upon" and replace the words "a sliding scale" with "financial need". Mr. Lanni’s suggested wordage.

COMMISSIONER WILHELM: Shouldn’t that be one or the other?

COMMISSIONER McCARTHY: Yes. Mr. Wilhelm correctly points out that we’ve got a redundant word, still the same section, third line up at the top "such revenues/monies", "revenues" was not deleted, it is supposed to be "such monies". That’s the only changes that Mr. Lanni and I are proposing at this moment.

CHAIR JAMES: So we now have 4.16, 4.18 and -- do you want to say anything about 4.19 -- 4.20 --
COMMISSIONER McCARTHY: 4.19 is the one we’ve been discussing -- I’m sorry -- there was one more. On 4.20 -- because, again, the first line, how we reword that. This is the back page of the second sheet. Same again there when we talk about -- on the second line, after the words "telephone numbers" should be "of at least two" -- pardon me -- not "of" -- "at least two or more".

COMMISSIONER LANNI: No, we don’t need "or more".

(Simultaneous discussion.)

COMMISSIONER McCARTHY: What did Mr. Lanni say? He’s the one that was making the suggestion.

CHAIR JAMES: You do need "of".

COMMISSIONER LANNI: "Of at least two", I don’t think you need "or more".

COMMISSIONER McCARTHY: "Of at least two", okay. "Of at least two state approved providers", et cetera. And those are the only changes, Madam Chair, that we have.

CHAIR JAMES: Commissioner Lanni?

COMMISSIONER LANNI: On the issue of 4.19, with the first lines where you say "Each state shall enact, if it has not already done so, a gambling privilege tax in all gambling operations", and it would be used. The problem with that language is, for example, in New Jersey, you have an 8 percent gambling privilege tax, and I don’t think we are suggesting they take that entire 8 percent tax and apply it to problem and pathological gambling, since it is already specifically earmarked. So, it would either be a portion -- they have an 8 percent gaming tax on gaming revenues, and I don’t think --

COMMISSIONER WILHELM: Maybe that would cure it, if it makes sense to Leo, by starting the third line --
COMMISSIONER McCARTHY: This one, the last line maybe, is where it should fit in here.

COMMISSIONER WILHELM: I was going to suggest "a portion of such monies shall be used" --

COMMISSIONER McCARTHY: Yeah, that’s fine. That’s all right.

COMMISSIONER BIBLE: So this would only be state licensed operations, this would not apply to Tribal governments?

COMMISSIONER McCARTHY: No.

COMMISSIONER WILHELM: I was going to ask that question.

COMMISSIONER McCARTHY: I want this to apply to gambling operations as well as whatever the proportion would be of -- you know, you’re going to learn the need for treatment from the prevalence studies that will be done, and other research, to identify the number of pathological gamblers, the treatment availability, so they’ll have to base this on information that’s developed.

COMMISSIONER BIBLE: How do you apply the tax to Tribal operations?

COMMISSIONER McCARTHY: To government operations?

COMMISSIONER BIBLE: Tribal, or do you. Maybe you don’t.

COMMISSIONER McCARTHY: We’re asking the Tribal government to adopt the tax themselves, or that this language be introduced into a compact wherever there is a compact.

COMMISSIONER BIBLE: So this language "each state shall enact" is somehow modified?

COMMISSIONER WILHELM: Well, Leo, a question in that regard, was it your intention that 4.18, which requests tribes
and states to implement, or 16, do you also want them to
implement 4.19?

COMMISSIONER McCARTHY: That’s correct. That’s
correct. That’s a good point. So we should add that -- "All
components of the recommendations in 4.16 or 4.18", whatever the
numbers end up being after our editor finishes.

COMMISSIONER WILHELM: 4.19 at the moment.

CHAIR JAMES: Well, what’s the change now in the
current 4.18?

COMMISSIONER McCARTHY: Looking at 4.18, we want to
make sure that not only are the conditions of granting a license
by Tribal or state government added, but we want to make sure
when it comes to contributing to the fund that will be dedicated
to these purposes, that both Tribal and state governments
contribute to that in some fair proportionate way.

COMMISSIONER WILHELM: So it would say all components
of recommendations 4.16 and 4.19, is that what you’re saying?

COMMISSIONER McCARTHY: Yes.

COMMISSIONER BIBLE: Procedurally, how do you do that
with Tribal governments? Are you recommending that IGRA be
amended so the states can tax the Tribes, because there’s a
provision in IGRA now that provides states cannot tax Tribes.

COMMISSIONER McCARTHY: No, I’m really suggesting at
this point that states and Tribes come together and negotiate out
these differences, and I think Tribal governments will be
disposed to attack the problem of pathological gambler issue. My
impression is, from conversations I’ve had with some different
Tribes -- and Commissioner Loescher could certainly address this
more fully than I can -- is that they are very conscious of this
problem. They want to address the problem. And I think you’re
going to see some setting some getting some good example as we get into this, to try to figure out how to fund the treatment.

COMMISSIONER BIBLE: But when you get into the Tribal subcommittee’s recommendations, the Native American Gambling Subcommittee’s recommendations, there’s a specific recommendation there to amend IGRA so that states could, in effect, levy tax on Tribal operations within their jurisdiction, as long as that tax was not greater than tax for non-Tribal operations --

COMMISSIONER McCARTHY: Right.

COMMISSIONER BIBLE: -- and it be dedicated for the treatment of problem gamblers.

COMMISSIONER WILHELM: I don’t personally look upon those as being inconsistent because no one has any way of knowing whether, in fact, IGRA would be recommended to permit payments, whether they are called taxes or whether they are called contributions, or whatever you call them, by Tribes pursuant to a state procedure. IGRA might or might not be recommended in that regard. And so I don’t think there is anything inconsistent between that recommendation that you’re referring to, Bill, and the Indian Gambling Subcommittee report and Leo’s. And it seems to me, if I understood Leo right, that it makes sense to amend 4.18, at the end of the second line, to include both 4.16 and 4.19, which I think is where Leo was going with that. And I don’t think those are inconsistent.

COMMISSIONER LOESCHER: Madam Chairman.

CHAIR JAMES: Commissioner Loescher.

COMMISSIONER LOESCHER: Madam Chair, there’s a couple of things that you need to document. You’ve got quite a few things going at once here. One thing is that I’m advised that but for the Couer D’Alene Tribe, who wanted to take a look at
lotteries -- and they have since backed off from that position -- Native Americans aren’t involved in lotteries. And actually, you know, all the way through this writing here, you have Native Americans involved in lotteries, and I don’t believe that is the general case.

The other is that other points with regard to contributions, one point you need to be aware of, one government doesn’t tax another government, that’s fundamental in sovereignty law. But I believe that Native Americans who accept the notion that this business of the contribution for this purpose is subject to compact negotiations, I believe that they would accept that idea. So, if the language could be --

CHAIR JAMES: Should reflect that.

COMMISSIONER LOESCHER: -- reflect that, I think we could reach an accommodation here.

CHAIR JAMES: May I suggest this. We were trying to get at this point -- only specific word changes, and then we need to go back in an orderly fashion and discuss each of these. Are there any other word changes?

(No response.)

If not, then I think we should move for discussion, starting with 4.16. Commissioner Wilhelm.

COMMISSIONER WILHELM: On Commissioner Loescher’s point, Bob, I think that if we were to adopt Leo’s 4.18, as amended, to include both 4.16 and 4.19, I believe -- and correct me if I’m wrong -- that would be consistent with what you’re saying.

What 4.18 says, as Leo has drafted it, is, "The Commission respectively recommends that Tribal and state governments take the steps necessary to implement both of those
sets of recommendations, both for lotteries and for other forms of legalized gambling -- and I think it’s phrased that way to cover both states and Tribes -- and then the last sentence makes the point that I think you were just making, about compacts.

So, it would appear to me -- unless I’m missing something -- that Leo’s recommendations taken together are consistent with what you are saying. I recognize there’s some phrasing in some of the Indian Gambling Subcommittee recommendations that may need to be conformed on the tax issue -- and I think you are right about that, Bob -- but I think, unless I am missing something, I think these are okay in that regard.

COMMISSIONER McCARTHY: I’ve tried to reflect in the language of 4.18, Bob, just what you suggested.

COMMISSIONER LOESCHER: Okay. Well, we accept that if the language can be conformed.

CHAIR JAMES: Commissioner Dobson.

COMMISSIONER DOBSON: I would like a clarification again from Commissioner Loescher. I don’t quite understand how this would work if you have a compact arrangement with a Tribe. And the revenues that are generated are not going to be used specifically for treatment, but going into the general fund, that looks a whole lot like a tax on the Tribe, rather than a tax for a specific purpose, i.e., treatment. How do you get around that?

COMMISSIONER LOESCHER: Madam Chair, the negotiations between Tribal governments and a state through their governor can range over a whole wide area of issues, and I believe that Native American Tribes have been a leader in dealing with pathological problem gambling already, and contribute immensely large sums of money now. What we are talking about here is developing a program between states and Tribal governments and other entities
that allocate for research, allocate for treatment, allocate for whatever, to make this work. And I think it would all be subject to negotiation.

I believe that the Native Americans are ahead of the game already, so I don’t think that this is an imposition.

CHAIR JAMES: Commissioner Dobson.

COMMISSIONER DOBSON: Perhaps I didn’t explain my concern. We have amended, or are talking about amending, this language to allow states to use a portion of the revenues from this tax for treatment. That may be 1/1000th of a percent, we don’t know what it is. The rest of that is going into the general fund or for some other purpose. Have I misunderstood?

COMMISSIONER McCARTHY: May I answer, Madam Chair?

CHAIR JAMES: Commissioner McCarthy.

COMMISSIONER McCARTHY: If you read the language of 4.19, it says "Such funding will be sufficient to implement the following goals". So, whatever the portion is -- if we only have a state with an existing gambling privilege tax that’s dedicated to some other things not on this list, we’re not asking them to terminate those expenditures. They’ve already exercised their own judgment.

We’re saying that these -- there has to be sufficient funding to fulfill these goals listed here, whether it’s the total gambling privilege tax that’s dedicated, or a portion of it.

COMMISSIONER DOBSON: And the rest of it goes into the general fund.

COMMISSIONER McCARTHY: No, it does not. There’s no reference here regarding the general fund. The gambling privilege tax normally, when it exists in states, is -- and help
me out, Bill, if you know different -- is dedicated to some
specific purposes.

COMMISSIONER BIBLE: It varies. Mostly -- well, variations, but in the larger states it will just be a general fund revenue. That will be subject to the appropriation legislature. What your recommendation is, if I understand what you’re saying, you’re not calling necessarily for a new tax --

COMMISSIONER McCARTHY: If one exists already.

COMMISSIONER BIBLE: -- if there’s already a percentage, or a tax on percentage of revenue, but you’re asking that a portion of that be dedicated for treatment purposes.

COMMISSIONER WILHELM: And that that portion has to be sufficient to accomplish --

COMMISSIONER BIBLE: The money has to be sufficient to accomplish, that’s correct.

CHAIR JAMES: But is it not, in fact, calling for a new tax if it does not exist?

COMMISSIONER BIBLE: If it does not exist, it is calling for a new tax.

CHAIR JAMES: It is calling for a new tax.

COMMISSIONER McCARTHY: That’s correct. Or it might possibly have to be enlarged if it is found to be necessary to meet these purposes.

COMMISSIONER BIBLE: But if a state chooses to otherwise meet these program purposes from its general revenues, they wouldn’t qualify under this because they have not either increased their tax or dedicated a portion of an existing tax, correct?
COMMISSIONER WILHELM: Jim, I may not be following your point, but I believe Bob’s point was simply that a state cannot tax a Tribe.

COMMISSIONER DOBSON: I understand that. That is, in fact, my concern because there is apparently a portion of this that is not going to be dedicated to the purpose that we’ve outlined.

COMMISSIONER WILHELM: Well, but Leo’s formulation of 4.18, in my view, goes as far as the law permits because there is no way a state can tax a Tribe. And so the 4.18 recommends that both Tribal and state governments do the same thing by encompassing the reference to 4.19, and further recommends that those requirements ought to be included in both Tribal law, because Tribes can tax themselves, and also in Tribal-state compacts, which is the point of leverage that, in fact, states and Tribes have with each other, is the negotiation of the compact. So, unless I’m missing something, I believe that Leo’s recommendation goes as far as the law would permit.

COMMISSIONER BIBLE: And I’m trying to get a copy of IGRA because there is tax language contained within that Act. I haven’t looked at it in ten years. Yes, there is some language in there that indicates -- well, speaking from memory, it indicates that states cannot tax the Tribes, but I believe there may be an exception for costs of services performed.

COMMISSIONER WILHELM: Yes, but it isn’t a tax.

COMMISSIONER LEONE: Can I get into this a minute? I think we -- before we get too caught up in this, we ought to stop and think a minute about what the recommendation means even when we’re applying it to a conventional state government.
It is a recommendation that a state government do something that it may or may not do. It’s a recommendation that a Tribe that has gambling do something that it may or may not do, whether it’s with regard to casinos or lotteries or anything else.

So, I think that we may be arguing about something that is more language and less effect. I mean, the effect of these recommendations depends on whether people take them seriously and act on them -- state legislatures, Tribal governments, the Federal Government, et cetera -- and I don’t see that there’s a particular difference between our calling for the State of Missouri to do something and our calling for the Piquads to do something as what we think they ought to do. Obviously, in both cases, what actually happens will turn on a variety of forces.

If we want to discuss the Federal Government changing the status of the Tribes, if that were possible in legal framework, that’s a separate, stand-alone discussion, it seems to me. This discussion can go forward regardless. I mean, there’s a number of practical facts about this. As I understand it, Leo’s language would apply this to lotteries, and obviously a good deal of it is written for an institution that is somewhat larger and more complicated than a 7-11 store. That doesn’t particularly bother me because I think the market and the practicalities of how this would be implemented in states would deal with the difference between the way MGM-Grand might respond to these guidelines and the way the guy who sells groceries would have to respond to them, and there’d be ways -- it’s a little bit like health insurance for employees -- I mean, they are very different.
So, I don’t think we should get too hung up on things like that. This is not going to be one-size-fits-all, it’s a broad policy recommendation we are discussing. And if, let’s say, in some miraculous fashion, if every state and every Tribe in fact said this is great, we’re going to enact something like this. At the end of the day, there’d be a wide variety, I suspect, of differences in what they enact.

COMMISSIONER BIBLE: But I think we want to understand what we are doing. There may be some jurisdiction -- what if they are calling for a percentage tax based upon revenue. Not all jurisdictions are going to levy taxes on their gaming operations in that manner. Some of them will have device fees -- for instance, I would presume in South Carolina, which is relatively unregulated, that they probably have a device fee where it is $200 per slot machine, or $500 per gaming --

COMMISSIONER LEONE: Well, I don’t understand that difference either, Bill. A tax is a tax, whether you call it something else or not, and I don’t see where it says percentage of revenues.

COMMISSIONER BIBLE: Well, it says right there in the second line, it does.

(Simultaneous discussion.)

COMMISSIONER LEONE: Yes, but if I’m going to vote on something, I want to know whether -- if we’re going to vote on something, I think we want to know are we calling for a new tax. I’m sure Chairman James wants to know whether or not she’s recommending a new tax.

CHAIR JAMES: That’s very important to me.

COMMISSIONER LEONE: I thought the phrase there was "where necessary". Isn’t that --
COMMISSIONER BIBLE: We don’t have a "where necessary" in here.

COMMISSIONER LEONE: Didn’t you amend that --

CHAIR JAMES: Right now, as this language stands, this Commission will be calling for states and Tribal governments to enact new taxes -- it’s called a gambling privilege tax -- based on, as you say, Dick, a percentage of gross revenue, but a tax nonetheless.

COMMISSIONER LEONE: That’s the way I read it.

CHAIR JAMES: Commissioner Lanni.

COMMISSIONER LEONE: Without a doubt, that’s --

COMMISSIONER LANNI: I think, Leo, there was -- one word that dropped out of here -- was actually "gross casino revenues", not "gross revenues".

COMMISSIONER WILHELM: But this isn’t limited to casinos.

COMMISSIONER LANNI: Well, gaming revenues, it doesn’t really matter if it’s casinos, but gaming revenues.

COMMISSIONER WILHELM: Why is that different?

COMMISSIONER LANNI: Well, because you have establishments where 50 percent of their revenues come from food, beverage, retail, entertainment, and I don’t think we’re dealing with food problems and --

COMMISSIONER WILHELM: You’re right.

COMMISSIONER LANNI: -- or over retailing, and spending too much on credit cards, so that needs to be limited also.

CHAIR JAMES: Would you like to add that word in?

COMMISSIONER LANNI: I thought that word was added.

CHAIR JAMES: Well, gaming.
COMMISSIONER LANNI: Gambling. You’re saying gaming,
I’m saying gambling.

COMMISSIONER WILHELM: It’s the litmus test, Terry.

(Laughter.)

CHAIR JAMES: Enabling legislation says "gambling".

COMMISSIONER LANNI: Kay and I are going to have our
ticket running against your ticket, anyway.

(Laughter.)

CHAIR JAMES: And we’re going to win.

COMMISSIONER WILHELM: I’d say that’s a runaway you’ve
got going.

COMMISSIONER BIBLE: I think on this one, Leo, is that
I think everybody in the Commission is in agreement. I think at
least I am concerned that this is a call for new taxes, and I
suspect you are going to pick up more people on the Commission if
somehow it’s broadened out. If you take a look at the
recommendation 4.14 on page 9, it indicates that each state can
choose how they are going to fund the program, whether they do it
from existing revenues, or newly imposed revenues, or whatever.
But this is a very specific recommendation that has the
implication of calling for a new tax in a number of areas.

COMMISSIONER LEONE: Let me understand something. You
don’t think this should be financed by essentially a use tax.
You think it would be all right if this came out of general
revenues.

COMMISSIONER BIBLE: Yes, as long as you accomplish the
program goals.

COMMISSIONER LEONE: See, I would oppose that. That
would make gambling even more regressive than it already is, by
definition.
COMMISSIONER BIBLE: And I suspect most states would earmark or would go into the existing revenue stream, but you’ve called here for --

COMMISSIONER LEONE: But, in fact -- if, in fact, a state decided that it was going to take money from, let’s say, the state income tax, and use that to pay for the costs generated by the state lottery tax, the net effect would be to make that state’s tax system to that extent less progressive and more regressive.

So, I don’t know why we’d get into that when we’re dealing with a universe that clearly involves the externalities, the costs generated by the act of gambling, seems to me, a classic case where you use a use tax. A use tax helps you get more realistically at what the costs and benefits are of that particular activity. We do it on lots of things, and I don’t see why we wouldn’t do it here.

I also don’t think there are likely to be any examples at state government level, of gambling activities that are not taxed.

COMMISSIONER BIBLE: But, Richard, you’ve got this based on percentage of gross gambling revenues. Now, for instance, in Nevada, there’s an entire classification of licensee that does not pay tax based upon gross gambling revenue, and --

CHAIR JAMES: Based upon what, Bill?

COMMISSIONER BIBLE: The gross gambling revenues. They are taxed on a device bases. That’s going to be true in a lot of jurisdictions where there’s a device tax and not a gross revenue tax.

COMMISSIONER LEONE: Okay, but that’s a use tax, too. I didn’t say gross --
COMMISSIONER BIBLE: I understand, but that’s what we have before us, and I would argue that it needs to accommodate the various situations out there, and I am concerned that they call for a new tax in some circumstances. I’m not opposed to taking a portion of existing revenues and dedicating them for this purpose.

CHAIR JAMES: I would be much more inclined to recommend something like that, and I know that we are -- as a Commission, this is going to be a tough one for us because it basically, fundamentally comes down to one’s philosophy of whether or not we should impose new taxes, or suggest new taxes, or we should suggest that states come up with other means of funding this.

I think the fundamental area of agreement is that there should be funding made available and that we should look at ways of making sure that those resources get to where the problem is. But, again, the problem comes when we, as a Commission, recommend to states a new tax. Commissioner Dobson?

COMMISSIONER DOBSON: Madam Chair, I think we all agree that this is a new tax. What creates a minor problem for me, philosophically, is that we are not indicating that those revenues are designated specifically for this purpose.

CHAIR JAMES: Or how much of it.

COMMISSIONER DOBSON: Or how much of it. Therefore, it becomes a new tax for the general revenue. And I don’t know if that’s what we are wanting to do. I commend Commissioners McCarthy and Lanni for the work that they have done here and I will support it, but that aspect bothers me because we don’t know what tiny portion of it is going to go to this purpose. Everything else is a general tax increase.
CHAIR JAMES: Except that they do say it's sufficient funding, and I think they tried to get at it through that in the language. I'm not sure, maybe there's something that could be done to accommodate Commissioner Dobson's desire to be sure that the money specifically goes there. I still have an additional problem, however, of recommending a new tax. Commissioner Wilhelm.

COMMISSIONER WILHELM: I think that Leo's done a great job on this, and I am personally comfortable with the phrasing of "funding shall be sufficient". With respect to Bill's point about, you know, the difference between percentage of revenues and device fees and all that, it seems to me that could be dealt with by saying something like -- in the second line, something like --

CHAIR JAMES: Second line of --

COMMISSIONER WILHELM: -- 4.19, saying something like "Based upon the gambling revenues of each operation", because Bill is right, different states have different methodologies for arriving at how that ought to be done.

On the more --

CHAIR JAMES: Excuse me, John, would you repeat that language?

COMMISSIONER WILHELM: I was just throwing this out, something like "Based upon the gambling revenues of each operation", so that you wouldn't get involved in whether it had to be a percentage. Bill's right, some -- I guess little bars or slot rules or something in Nevada, it's per device.

COMMISSIONER BIBLE: That would be the case in Montana.

COMMISSIONER WILHELM: Yes. But on the broader issue that has surfaced here of whether or not the Commission should be
in the business of essentially recommending a tax in those jurisdictions where there isn’t one, I do realize there’s a philosophical issue here. Seems to me that this recommendation has three parts to it, when you add up 4.19 and 4.18.

First, it says on its face that if a state doesn’t have a gambling privilege tax, it should. I don’t know how many places like that there are with respect to private gaming. Off the top of my head, I think that most, and maybe even all, states that license private gaming do have some form of privilege tax. So, I don’t know that we are proposing a new privilege tax.

Now, with respect to 4.20 -- I’m sorry -- 4.18, where we’re recommending that the Tribes and the state governments, with respect to governmental gambling, do the equivalent, clearly, in my view at least, Commissioner Loescher is right. If a Tribe agrees in a compact with a state or as a function of Tribal governmental law to provide these type of funds, which I would hope that they would on an equivalent basis, I don’t know that that’s a tax. For purposes of IGRA, I don’t think it is a tax, I think it is a contribution.

And for purposes of a state allocating portions of its own lottery revenue, that’s not a new tax either because every state takes lottery revenue into its general fund. So, unless I am wrong, unless there is a jurisdiction which does not in any way tax gambling already -- I doubt that there is -- then I don’t think we’re recommending a new tax.

Now, having said all of that, even if we are, I agree with Richard, I don’t have a problem with that so long as it is a recommendation to the states and the Tribes. I would have a problem with federal legislation that would mandate a new tax at the state and Tribal level. But I personally -- even if I’m
wrong about the fact that this probably isn’t a new tax -- I don’t have a problem with recommending to states and Tribes that if they are not doing this, they should be doing this. I don’t see what the problem is.

COMMISSIONER LOESCHER: Madam Chair.

CHAIR JAMES: Commissioner Loescher.

COMMISSIONER LOESCHER: I’d like to first suggest some words and then make a motion, to make it clear. I would suggest language like "Each state shall enact a gambling privilege tax, assessment, or other contribution on all gambling operations". I’d like to move the words after the word "tax", "tax, assessment, or other contribution". I so move.

CHAIR JAMES: "Assessment or other" -- can we just keep this from the motion stage just now, and look at words, because we’re going to have to come back and address each of these individually and see if there’s a motion. But the word changing that you’re suggesting is "assessment or other contribution".

COMMISSIONER LOESCHER: After the word "tax," then "assessment or other contribution". Madam Chair, the reason I say that is that, you know, the tax is a tax, and we understand what taxes are, but assessment means if there’s a program and -- for instance, in the case of Native Americans, if they are contributing to a statewide program, it would be an assessment that they would negotiate. Or if they already have money that they are contributing, it would be recognized as a part of whatever overall program in that state.

So, I think it gives more flexibility, given the vast differences between states in America, this language.

CHAIR JAMES: Commissioner Lanni.
COMMISSIONER LANNI: Bob, you left out what we had already included -- following "Each state shall enact, if it has not already done so". Do you want to include that? It’s not on your written document, it was proposed as a modification.

COMMISSIONER LOESCHER: Madam Chair, my problem is that I was thoroughly convinced and trust very implicitly my friend, John Wilhelm. He says that 4.18 is sort of a governing language for the pretext of all these sections, but when I got to thinking about the word "tax", I said, umm, I really want to have a little more flexibility here. So, that’s the reason I --

COMMISSIONER LANNI: No, no. I think your additions -- I happen to support those. I’m saying when you read that, you left out something we had already said.

COMMISSIONER LOESCHER: Oh, okay.

COMMISSIONER LANNI: "Each state shall enact, if it has not already done so, a gambling privilege tax", and then your addition I thought was appropriate, and I would second it.

COMMISSIONER McCARTHY: You want that language as applied to the decision Tribal governments make.

CHAIR JAMES: No.

COMMISSIONER LOESCHER: No.

COMMISSIONER LANNI: No.

CHAIR JAMES: No, to everything.

COMMISSIONER BIBLE: It doesn’t do that, Bob, because it preambles "Each state shall enact", and a state can’t enact an assessment against a Tribe.

COMMISSIONER LOESCHER: But, Madam Chair, that’s the reason I had a little problem correlating what John Wilhelm was telling me earlier. He assuaged my nervousness earlier --
COMMISSIONER WILHELM: Well, that may be what you want, because a state can’t do it and apply it to Tribal gaming.

COMMISSIONER LOESCHER: So, I don’t know what 4.18 is with respect to this overall language.

CHAIR JAMES: For a point of clarification, I think his point is that if we give a list, it could be a privilege tax, assessment, or other contribution, then that language is inclusive, Bill, and would take care of his concerns about the sovereignty issue and what Tribal governments could be required to do.

COMMISSIONER BIBLE: But at least the preamble will have the state enacting it, and it would have to be agreed to by the Tribes through a compacting process or something of that nature.

COMMISSIONER WILHELM: Well, I thought that was the purpose of adding a reference to 4.19 to 4.18 because 4.18, I think, addresses the fact that this has got to be done through the compacting process or by the Tribe in passing its own laws.

CHAIR JAMES: That’s correct.

COMMISSIONER McCARTHY: Again, keeping in mind what Richard Leone said earlier, ultimately, it’s going to have to be the states and the Tribal governments that figure out how to do this. I would hate to leave the source of the money so vague, so opaque, that we reduce the certainty that there will be a fund dedicated to these purposes.

Now, I understand the point made about some variation and how states may tax different forms of gambling, and we can try to add a little flexibility in that regard, but the key point here is that there will be a dedicated fund to these purposes. Otherwise, if it goes into the general fund -- from my previous
life, I know that these purposes are never going to see very much money -- and if we loosen up where the money comes from instead of being somewhat specific -- although I already concede for purposes of Tribal governments we have to put that in a form that they are comfortable with, as long as the ultimate result is that what is contributed is a fair and proportionate amount to the definition of the problem in the state.

COMMISSIONER BIBLE: I think you need to hold this and work on that language so we’re very sure what we’re doing, whether it’s a call for new taxes or not.

CHAIR JAMES: Commissioner Wilhelm.

COMMISSIONER WILHELM: I maybe missing some of these points, but if I try to read the first paragraph of Leo’s 4.19, based upon the various changes that have been suggested, to me it would read like this: Each state shall enact, if it has not already done so, a gambling privilege tax, assessment or other contribution on all gambling operations within its boundaries, based upon the gambling revenues of each operation. A portion of such money shall be used to create a dedicated fund for the development of ongoing support of problem gambling specific research, prevention, education, and treatment programs. Such funding shall be sufficient to implement the following goals.

To me, I think that does what everybody is trying to do here, except that -- well, no, not except that. I think that does what everybody is trying to do here, unless I’ve missed some of the points.

COMMISSIONER DOBSON: Madam Chair, don’t we have a motion on the floor? I don’t know if it was seconded, but --

CHAIR JAMES: We don’t, at this point. We do not have a motion on the floor.
COMMISSIONER McCARTHY: Well, I’m trying to satisfy Bob’s point, that we can leave sufficient flexibility for the Tribes to still contribute the same certain amount of money, and if he wants it describe in other words, that’s fine.

COMMISSIONER LOESCHER: Madam Chair.

CHAIR JAMES: Commissioner Loescher.

COMMISSIONER LOESCHER: What’s wrong with saying "Each state and Tribal government", and then go on with the amended language?

COMMISSIONER McCARTHY: I accept that amendment.

COMMISSIONER LOESCHER: Okay. I would like to add that to my series of amendments.

(Laughter.)

CHAIR JAMES: At this point, we’re just editing, before we even get to the motion process.

VOICE: Do we have John’s language down?

CHAIR JAMES: John has John’s --

COMMISSIONER WILHELM: It’s not mine, it’s somebody else’s.

CHAIR JAMES: Everybody else’s. Right now, John, how about --

COMMISSIONER WILHELM: It would then read "Each state and Tribal government shall enact, if it has not already done so, a gambling privilege tax, assessment or other contribution on all gambling operations within its boundaries, based upon the gambling revenues of each operation. A portion of such monies" -- and the rest of it would be just like Leo has it.

COMMISSIONER McCARTHY: Where did we get the word "portion"?

CHAIR JAMES: Yes, "portion" wasn’t in there.
COMMISSIONER WILHELM: Oh, well, somebody suggested that a while ago on the grounds that --

COMMISSIONER McCARTHY: What’s existing. Existing taxes may say that.

COMMISSIONER WILHELM: Yes, right. Somebody pointed out that existing --

COMMISSIONER LANNI: Richard, we can’t do that because, again, you have an 8 percent tax, for example, in New Jersey, which is dedicated to one thing. I don’t think we are recommending -- and I certainly wouldn’t be in a position to recommend -- that that entire 8 percent of gross casino revenues be --

COMMISSIONER LEONE: How about "The funding dedicated for this purpose shall be sufficient to", what if we say that?

COMMISSIONER LANNI: That works.

COMMISSIONER LEONE: I think it does.

CHAIR JAMES: The funding for --

COMMISSIONER McCARTHY: You mean cross out the second sentence all together, Richard?

COMMISSIONER LEONE: Well, no, don’t cross it out all together.

CHAIR JAMES: But the last sentence should then say instead of "Such funding", you’ve suggested which language?
COMMISSIONER McCARTHY: "The funding dedicated to the following purposes" -- how did you word it, Dick?

COMMISSIONER LEONE: "The funding dedicated to these purposes shall be" -- the purposes I’m referring to are the previous sentence -- "for these purposes shall be sufficient to implement the following goals".

COMMISSIONER McCARTHY: That’s fine, I accept that.

CHAIR JAMES: I’m going to ask Dr. Kelly to read that back to make sure that the staff has it all.

DR. KELLY: Okay. Here’s what we have so far. "Each state and Tribal government shall, if it has not already done so, enact a gambling privilege tax, assessment or other contribution on all gambling operations within its boundaries, based upon the gambling revenues of each operation. A portion of such monies shall be used" --

CHAIR JAMES: No.

COMMISSIONER McCARTHY: "A percentage of the gaming revenue" --

DR. KELLY: I’m sorry.

CHAIR JAMES: There was no "A portion".

DR. KELLY: Scratch "A portion of"?

COMMISSIONER McCARTHY: Yes.

DR. KELLY: I’ll start again that sentence. "Such monies shall be used to create a dedicated fund for the development and ongoing support of problem gambling specific research, prevention, education and treatment programs. The funding dedicated for these following purposes shall be sufficient" --

COMMISSIONER McCARTHY: "For these purposes".
COMMISSIONER LEONE: No, just "these purposes" because you just said what they are.

DR. KELLY: "The funding dedicated for these purposes shall be sufficient to implement the following goals."

COMMISSIONER LANNI: I still have a problem with the issue because if you take an existing privilege tax, you would still, in that verbiage, be taking all of it, and that is not what we’re -- I don’t think that’s what we’re suggesting. It certainly isn’t what I’m suggesting.

COMMISSIONER WILHELM: And the State of New Jersey has 8 percent they’ve already earmarked, or three-quarters of it, for various things, specific things.

COMMISSIONER McCARTHY: Well, I think I recall earlier, Terry, you saying that to -- if we really are serious about having sufficient funds to implement these goals of research, treatment, and so on, that they may have to enlarge --

COMMISSIONER LANNI: I understand that.

COMMISSIONER LEONE: Terry, how about at the beginning of the sentence we just said "All or part of such monies shall be used" --

COMMISSIONER LANNI: That works.

COMMISSIONER LEONE: Or an appropriate amount of such monies, or whatever it is.

COMMISSIONER LANNI: You would be technically recommending that the State of Nevada take its entire 6.75 percent and apply it to --

CHAIR JAMES: Or part of it.

COMMISSIONER DOBSON: Isn’t that covered by our statement "if they haven’t already done so"?

COMMISSIONER LANNI: No.
COMMISSIONER DOBSON: New Jersey and Nevada have already done so.

COMMISSIONER LANNI: They’ve already done so, but we go on to say -- you could say "all or part". You could say take all of that and apply it to pathological gambling treatment. I still like the idea -- maybe we ought to have some language that basically says "for those entities that are already a part of a privilege tax" --

COMMISSIONER LEONE: How about a sufficient portion?

COMMISSIONER LANNI: That works.

COMMISSIONER DOBSON: That would work for me.

COMMISSIONER LEONE: And then we could clean up this sufficient language later on because we’ve already --

CHAIR JAMES: Adequate portion.

COMMISSIONER LEONE: Adequate portion -- adequate is probably better.

(Simultaneous discussion.)

COMMISSIONER LEONE: Well, that allows you to use -- the way or the three sources of funds that allows you to use any revenue. That leaves it up to them.

COMMISSIONER BIBLE: And it’s still based upon revenues of each operation, based upon like machine count or some other taxing methodology.

CHAIR JAMES: What I’m going to do is ask Commissioner Kelly, as we go back to discuss those others, to clean up that language so that we have it in front of us so that we know exactly what it is that we’re looking at.

COMMISSIONER WILHELM: Tim, you were just demoted to the status of Commissioner.

DR. KELLY: I noticed that.
CHAIR JAMES: Did I do that again?

COMMISSIONER WILHELM: You keep demoting him to be like the rest of us.

CHAIR JAMES: What can I say, absolutely. Director Kelly. If you could do that, we’d appreciate that.

VOICE: Helluva pay cut.

CHAIR JAMES: Okay. Yeah.

COMMISSIONER BIBLE: Before we leave this -- I know it’s late -- you’ve got the research being done by a non-partisan firm. Does that mean they can’t be registered to vote?

(Laughter.)

CHAIR JAMES: I certainly hope not. Independent is probably a better word.

(Simultaneous discussion.)

CHAIR JAMES: Having gone through with word changes, I think it’s appropriate now that we go back to 4.16, which is the first one, first recommendation before us, and see if there is in fact, with the language changes as discussed, there is a motion to adopt.

COMMISSIONER McCARTHY: Move.

COMMISSIONER DOBSON: Second.

CHAIR JAMES: Is there a second?

COMMISSIONER DOBSON: Second.

COMMISSIONER LANNI: I have a proposed amendment.

CHAIR JAMES: With that, I will ask -- we are ready for the discussion and any proposed amendment. Commissioner Lanni.

COMMISSIONER LANNI: Well, I think one was already suggested. I presume the motion included the language for Tribal and state governments to get the --

CHAIR JAMES: Yes, it did.
COMMISSIONER LANNI: So, assuming that, then I only have one, and it goes to point No. 4, and it really ties to point No. 3 -- and I agree with every aspect of this. You take a look at it, I think point No. 3 covers not only point No. 4, but anything else. It says "Contract with a state recognized gambling treatment professional to train management and staff to develop strategies for recognizing and addressing customers whose gambling behavior may strongly suggest they may be experiencing serious to severe difficulties".

Now, that specialist or expert in this particular area may suggest that an individual look into the gambling records of the individual, but for us to assume that the profile, looking and monitoring, if you will, the gambling aspects of an individual, someone who might visit 90 times may not be necessarily a problem or pathological gambler. An individual who may wager $10,000 a hand, who has a net worth of $5 billion, certainly is not moving outside his economic realm. And I think that’s too limiting, and I would move that we strike 4; make 5, 4; 6, 5; and 7, 6, because it really is limiting it, and let the professional determine what the methodology and what the we should be looking at.

CHAIR JAMES: Leo, this is your amendment. Would you accept that as --

COMMISSIONER McCARTHY: Well, let’s talk about it just briefly. I’ve been trying for a long time to figure out how to get any gambling facility to look at its database -- and that’s any gambling facility -- and that -- I’m not talking limiting that to credit worthiness. It may be how much and how often they bet on slot machines, you know, the way machines can now be devised to register that. It may be any kind of information
that, looking at it -- again, here we’re talking about the good faith and the willingness of gambling facility management here. This isn’t something that some government official is going to decide. This is going to be the judgment of management of a facility here. We’re just trying to get them to look at all the information they may have in front of them.

Now, in the case that -- and Terry and I discussed this a little bit. In the case that Terry’s talking about, if a man with a worth of $5 billion loses $100,000, that doesn’t show any disorder, and it doesn’t show any severe difficulties. It may show absolutely nothing, and it is not suggestive of that.

We’re talking about something with considerably more weight than that. We’re talking about a pattern of behavior here that gives warning signals. That’s what we’re talking about here, and I would hate to think that the database didn’t have any usefulness.

All I’m trying to do here is to encourage gambling facilities to use their database, to look at it -- not specifically add information that they wouldn’t ordinarily otherwise add themselves in their own good business sense of what belongs in there, but to at least look at the database to see whether together with human observations of the staff that’s been trained by a qualified professional and whatever else they do, they may recognize a lot of symptoms that suggest this person should gently be channeled into some treatment option. That’s all I had in mind.

COMMISSIONER LANNI: Leo, may I respectfully disagree. One issue you pointed out is this is going to be good faith, and good faith is a part of it, but if you read 4.16, we say "The Commission respectfully recommend that governments require" as a
condition of each gambling facility’s license to operate, "that each applicant adhere to the following", so it's more than good faith.

We're asking for legislation to enact -- or regulations to be enacted at a state level. And all I'm saying is that I'm not a clinician on this. I am not expert on this. I don't know if the patron's gambling behavior from a database is what is required or not to ascertain as part of a puzzle a person’s pathological problem gaming. I think it's covered in point No. 3 because we're saying -- this would be a state regulation or a state law that would say you have to have a treatment professional acceptable to us, in fact, to train management and staff to develop strategies for recognizing and addressing customers. If that specialist determines that the database is part of that strategy, I think that will be part of the recommendation which will be part of the licensing process. I just don’t see it as a separate point. Let’s let these experts -- I’m not an expert, and I don’t think, as much as you’ve read about this, that you’re an expert either on it -- let’s let the experts recommend to us what should be included, what should be excluded.

CHAIR JAMES: Commissioner Leon.

COMMISSIONER LEONE: I think, actually, Leo, that Terry has a point. No. 3 describes a process whereby a gambling operator will consult with professionals to develop strategies for recognizing and addressing these problems, and then, in fact, the recommendations go on to suggest that they’ll take actions.

Now, it seems perfectly plausible to me that those strategies are going to include consulting the database to see what this person is doing, but --
COMMISSIONER McCARTHY: Madam Chair, I accept Mr. Lanni's amendment. Delete No. 4 and renumber 5, 6, and 7 to 4, 5 and 6.

CHAIR JAMES: You had a second a moment ago, who seconded that?

COMMISSIONER MOORE: I second.

CHAIR JAMES: You did? Would you accept that --

COMMISSIONER MOORE: I did.

CHAIR JAMES: No, but we had a motion, somebody seconded it. It was Dr. Dobson. Would you accept that?

COMMISSIONER DOBSON: I would, yes.

CHAIR JAMES: With that, --

COMMISSIONER McCARTHY: Move the recommendation.

CHAIR JAMES: Call for the vote.

COMMISSIONER LOESCHER: Madam Chair.

CHAIR JAMES: Commissioner Loescher.

COMMISSIONER LOESCHER: You’ve got a series of motions going -- you’re going to take them one-by-one?

CHAIR JAMES: Um-hmm.

COMMISSIONER LOESCHER: There’s one little thing that is a prerequisite to my voting.

CHAIR JAMES: Okay.

COMMISSIONER LOESCHER: That 4.18 applies to 4.16 through 4.20, the language of 4.18. If we have that understanding, I’ll be happy to vote --

COMMISSIONER McCARTHY: We have that understanding. However these are finally numbered, what is now 4.18 will include the sections you are referring to.

COMMISSIONER LOESCHER: Okay.

CHAIR JAMES: Commissioner McCarthy said it, so be it.
COMMISSIONER McCARTHY: Madam Chair, do you want a motion to adopt just this one, or to adopt all four?

CHAIR JAMES: Do you want to do all four?

COMMISSIONER BIBLE: I think we ought to go through one-by-one to assure at least when we get to 4.18 --

CHAIR JAMES: What’s that? I didn’t hear that, Bill.

COMMISSIONER BIBLE: I think we ought to go through them one-by-one so when we get to 4.18 --

COMMISSIONER McCARTHY: I move on 4.16.

CHAIR JAMES: All in favor?

(Chorus of ayes.)

CHAIR JAMES: Any opposed?

(No response.)

4.16 is adopted.

COMMISSIONER McCARTHY: Move 4.18.

COMMISSIONER LANNI: Any abstentions?

CHAIR JAMES: Oh, any abstentions -- thank you. No abstentions.

COMMISSIONER McCARTHY: Move on 4.18.

CHAIR JAMES: Is there a second?

COMMISSIONER WILHELM: And we’re reading that to include all three of the others?

CHAIR JAMES: That’s correct, 4.16 through 4.20.

Discussion? We’ve had a great deal already.

COMMISSIONER McCARTHY: Question.

CHAIR JAMES: Call for the question. All in favor?

(Chorus of ayes.)

CHAIR JAMES: Any opposed?

(No response.)

Any abstentions?
(No response.)

4.19.

COMMISSIONER McCarthy: Move on 4.19.

CHAIR James: Commissioners, we have a motion. Do we have a second?

COMMISSIONER Dobson: Second.

CHAIR James: I was going to have Commissioner Kelly read that for us.

Dr. Kelly: Unfortunately, I have given my text to be edited and brought back to us, so I’m afraid I don’t have it in front of me.

CHAIR James: Okay. Well, why don’t you and I, John, do our best at this.

"Each state and Tribal government shall enact, if it has not already done so, a gambling privilege tax, assessment or other contribution, on all gambling operations within its boundaries, based upon the gambling revenues of each operation. A sufficient portion of such monies shall be used to create a dedicated fund for the development and ongoing support of problem gambling specific research, the prevention, education and treatment programs. The funding dedicated for these purposes shall be sufficient to implement the following goals."

How did I do, John?

COMMISSIONER McCarthy: Congratulations.

COMMISSIONER Wilhelm: Perfect, as always. And then Leo had made a change in the third to the last line of No. 5 as well.

CHAIR James: That’s correct. There was a wording change that says instead of "treatment", "can receive necessary
support based upon a sliding scale, that language was changed to "a financial need".

COMMISSIONER LANNI: Financial need.

CHAIR JAMES: I’ve heard a motion, I’ve heard a second.

Are we ready for the question?

COMMISSIONER McCARTHY: Question.

CHAIR JAMES: All in favor?

(Chorus of ayes.)

CHAIR JAMES: Any opposed?

(No response.)

Any abstentions?

(No response.)

Next, 20.

COMMISSIONER McCARTHY: Moved.

CHAIR JAMES: It has been moved. Has it been seconded?

COMMISSIONER WILHELM: Second.

CHAIR JAMES: Just under discussion area, I would remind Commissioners that the language will be changed there to reflect consistency throughout the document -- "Shall be required to conspicuously post and disseminate the telephone numbers of at least two state approved providers of gambling information treatment and referral support services". It has been moved and has been seconded. All in favor?

(Chorus of ayes.)

CHAIR JAMES: Any opposed?

(No response.)

Any abstentions?

(No response.)

Hearing none --

COMMISSIONER WILHELM: Madam Chair.
CHAIR JAMES: Yes. I heard a Madam Chair.

COMMISSIONER WILHELM: Yes. As long as we’re in this section, can we also take a look at Commissioner Loescher’s recommendation?

CHAIR JAMES: No. 4.17, we’re going to do that. And the numbers will be reworded to reflect how they are, but 4.17, "The Commission recommends encouraging private volunteerism of groups and associations working across America to solve problem gambling, especially those involving practitioners who are trying to help people who are problem gamblers. This should include strategically pooling resources and networking, drawing on the list of recommendations these organizations have presented to the Commission and working to develop uniform methods of diagnosis".

Is there a motion?

COMMISSIONER LOESCHER: Madam Chair, I so move.

CHAIR JAMES: Is there a second?

COMMISSIONER WILHELM: Second.

CHAIR JAMES: Ready for discussion.

(No response.)

Hearing none, are we ready for the question? All in favor?

(Chorus of ayes.)

CHAIR JAMES: Any opposed?

(No response.)

I am going to ask that when we break in a while for lunch, that staff and Commissioners use a portion of our lunch period to look ahead in the document to see what kinds of consolidation and elimination we can do based on that body of recommendations that were just passed.

COMMISSIONER LANNI: Madam Chair.
CHAIR JAMES: Commissioner Lanni.

COMMISSIONER LANNI: I think that we should also note this does not mean that we no longer need to hold 3.18, 3.19 and 3.22?

CHAIR JAMES: Yes, 3.18, 3.19 and 3.22 have been deleted.

COMMISSIONER LANNI: Thank you.

CHAIR JAMES: That takes us back to then 3.21. Is everybody there? Okay. Let’s proceed. "The Commission recommends that warnings regarding the dangers and risk of gambling as well as the odds should be posted in prominent locations in all gambling facilities." Is there a motion?

COMMISSIONER BIBLE: I’ll move it.

CHAIR JAMES: It has been moved. Is there a second?

COMMISSIONER McCARTHY: I think we understand here, Madam Chair, that we’re not asking facility owners/managers to post different kinds of signs --

CHAIR JAMES: Let’s hold that for discussion. We need a second right now, to proceed. Do we have a second?

COMMISSIONER MOORE: Second.

CHAIR JAMES: It has been moved and seconded. We’re ready for discussion. Leo.

COMMISSIONER McCARTHY: As long as we understand this can be consolidated with what we just passed, the last of my four recommendations, if we want to do so. Warnings and phone numbers could be on the same sign so we’re not over-complicating this.

CHAIR JAMES: Do you want to delete it?

COMMISSIONER BIBLE: What would you envision the warning saying?
COMMISSIONER McCARTHY: The best warning that I saw in all the materials we were given during our regional site hearings was the Las Vegas, actually, a pamphlet -- I can’t remember the name of the group that distributed it, but it listed, in effect, the criteria of DSM IV. And some of the others were absolutely meaningless and didn’t provide anything. They were --

COMMISSIONER BIBLE: I can envision, based upon our research, somebody putting a sign on a machine saying "97 percent of you gamble responsibly, 3 percent of you don’t. You may be one of the 3 percent".

COMMISSIONER McCARTHY: Yes. I think we can individually send those suggestions around the country, if we want --

(Laughter.)

CHAIR JAMES: I don’t think we are -- this Commission is recommending what that ought to be, Bill, but that they ought to responsibly consider some type of warning.

COMMISSIONER LEONE: Kay, I’m particularly interested in the odds being posted at machines, at games being readily available. I think people -- I can’t see any arguments against the odds being displayed on any game of chance.

COMMISSIONER BIBLE: How do you post odds on where you have players --

COMMISSIONER WILHELM: That’s what I was going to ask. I’m not a gambling expert -- Terry or Bill would know -- it seems to me you can post -- I don’t think you can post odds on poker.

COMMISSIONER LANNI: No, or blackjack or craps.

COMMISSIONER WILHELM: On machines, can you post odds, or can you post payback, what can you post on a machine?
COMMISSIONER LANNI: What you can basically post is the average payback. It varies from machine-to-machine, and it differs for what you wager on a machine.

COMMISSIONER WILHELM: I would agree with Richard except --

COMMISSIONER LANNI: -- I don’t know how you do it practically.

CHAIR JAMES: What if the language said something like "The Commission recommends that warnings regarding the dangers and risks of gambling, as well as the odds, where appropriate, should be posted in prominent locations".

COMMISSIONER McCARTHY: That’s "where feasible" rather than "appropriate"?

CHAIR JAMES: Where feasible is better.

COMMISSIONER WILHELM: Because I think Richard is right.

CHAIR JAMES: "The Commission recommends that warnings regarding the dangers and risks of gambling, as well as the odds, where feasible, should be posted" -- would you accept that as a friendly amendment?

COMMISSIONER McCARTHY: Sure.

CHAIR JAMES: Okay. Are we ready for the vote? All in favor?

(Chorus of ayes.)

CHAIR JAMES: Any opposed?

(No response.)

Okay. 3.23, "The Commission recommends that gambling facilities should be required to institute loss limits daily, monthly, and yearly, for frequent players and/or slot club
members, based on a customer’s demonstrated ability to absorb such losses”. Is there a motion?

COMMISSIONER MOORE: I’m not so sure about 3.23.

COMMISSIONER WILHELM: Well, there’s no motion.

CHAIR JAMES: Then you don’t have to worry about it.

COMMISSIONER MOORE: Okay.

CHAIR JAMES: Hearing none, 3.24. "The Commission recommends that gambling regulators should be prohibited from working for or representing gambling interests for a minimum of five years upon leaving a regulatory agency, to ensure regulatory integrity."

COMMISSIONER LEONE: Those rules, I assume, vary -- I don’t know who made this recommendation -- they vary from state-to-state.

COMMISSIONER BIBLE: This was Dr. Dobson’s recommendation, they vary from state-to-state. I was very aggressive at pushing within Nevada an expansion of cooling-off periods to entire agencies --

CHAIR JAMES: Do we have a motion?

COMMISSIONER DOBSON: Yes, you have a motion.

CHAIR JAMES: We have a motion. Do we have a second?

COMMISSIONER LEONE: I would just like to know more about what the existing situation is --

COMMISSIONER BIBLE: I’m starting to explain it.

CHAIR JAMES: Could we get a second, and then we can discuss it. Maybe we don’t need to.

COMMISSIONER MCCARTHY: For purposes of discussion, I’ll just second, although I have some question about the five-year --

CHAIR JAMES: Right. Commissioner Bible.
COMMISSIONER BIBLE: Most jurisdictions do have cooling-off periods that apply generally to regulators, whether it be gaming regulators or insurance regulators who are going to work in the industry that they regulate. I’ve never seen a term as long as five years. For instance, I’m personally subject to a one-year cooling-off period, and that seems to me to be appropriate in terms of distance from the task you performed, the knowledge you’ve gained, and decisions you made, with a cooling-off or a hiatus before you would go to work for the industry. I personally support cooling-off, I think five years is way overly long. But I wouldn’t mind if it would be modified, if you’d care to modify it, Jim, so that during that five-year period the state would continue your salary.

COMMISSIONER DOBSON: Fine. The intent here is obvious. I think that there is a potential for an enormous conflict of interest, and I think there should be something more than a year, which seems to me to be very small -- short.

CHAIR JAMES: Commissioner Wilhelm.

COMMISSIONER WILHELM: I have three objections to this. First, I don’t recall anything in our record about this, other than a passing reference to a New York Times article. With all due respect to the New York Times, I don’t consider that a record.

Second, it seems to me that in this particular area, especially after the record, that we don’t have any basis to conclude that a state should treat gambling regulators any differently from a variety of other regulators. Somebody said insurance regulators, liquor regulators, et cetera.

Third, as gambling expands, I think it is critically important that the reservoir of knowledge that exists about
effective regulations be bigger, not smaller. So, for example, if
this recommendation were to be taken literally, a Tribe which
concluded that it needed a level of regulatory advice that it
doesn’t have, could not hire a regulator who had departed from a
state regulatory agency, even if that person was highly skilled
and very knowledgeable, for x-number of years. And that seems to
me to be not a particularly useful restriction to create.

So, for all three of those reasons, but most especially
because we have no record to suggest that there is a problem in
this regard, I would be against this recommendation in any form.

COMMISSIONER BIBLE: I would agree with certainly your
last comment. I was not reading this as being so global to apply
to non-jurisdictional boundaries where, say, a regulator in New
Jersey could go to work for a Tribe, or a regulator in Nevada
could go to work in New Jersey.

COMMISSIONER WILHELM: Well, as written, I think it’s
quite --

COMMISSIONER BIBLE: No, and I think that that -- you
know, I would not support that. Another thing is, as a manager
of a regulatory agency, I feel a lot more comfort when some of
the people that were performing the regulatory functions for a
licensee had regulatory experience. They knew the code, they
knew the ethical standard, and they tended to support it. I do
believe, generally, though, that there should be a one-year
cooling-off period for a regulator from the industry they
regulate -- much more specific.

CHAIR JAMES: Commissioner Dobson.

COMMISSIONER DOBSON: Commissioner Bible knows more
about this subject than the rest of us together. Is there a way
to craft this so that you would be comfortable with it?
COMMISSIONER BIBLE: Yes.

COMMISSIONER DOBSON: How would you do it?

COMMISSIONER BIBLE: I strongly advocate cooling-off periods. I don’t think any individual should leave any regulatory agency and within a time period -- one year seems to be a fairly appropriate time period -- be engaged by someone that you have supervised as a licensee or as a regulated individual, be engaged by that particular entity, especially as it relates to any matter you may have had under consideration during your tenure. To me, it’s a fairly simple matter. I could work on language here to make this appropriate. I think most states already do this.

COMMISSIONER DOBSON: Again, one year seems short to me. I don’t know where the rest of the Commission is.

COMMISSIONER BIBLE: But I think the point that John made is an important point. If, for instance, a Tribal gaming operation wants to engage a regulator who has substantial experience, say, from New Jersey -- all the individuals from Foxwood’s were employed from New Jersey -- they would not be able to perform that function under this particular provision.

COMMISSIONER LOESCHER: Madam Chair.

CHAIR JAMES: Commissioner Loescher.

COMMISSIONER LOESCHER: I’m going to vote against the motion unless it is amended. Even for key staffers in Congress, one year is the limit -- you know, you can’t do business with them for a year. It seems to be a widely known practice that people who have a potential conflict should at least abstain for a year. If this was amended to be just one year, I think that would be fine. If not, I really think you really encroach on people’s livelihood. In private enterprise, we have non-compete,
and we pay for non-compete provisions of contracts, if you don’t want somebody competing with you for a period of time or be involved in the business.

The other is Native American people have benefited greatly because of transference of people from Las Vegas and Atlantic City into Native American Tribal gaming. So, we would lose this advantage if this was enacted.

CHAIR JAMES: Commissioner Dobson, what is your pleasure?

COMMISSIONER DOBSON: Again, Bill, can you -- is the only thing you are suggesting the change of the term to one year?

COMMISSIONER BIBLE: No, no, no. I would change both the term and the element of, I suppose, jurisdiction. Where you’ve indicated "working for or representing gambling interest", I believe it should be much more specific to those activities that you were responsible for during your tenure as a regulator.

COMMISSIONER DOBSON: Can you give us that language?

COMMISSIONER BIBLE: I can --

CHAIR JAMES: Why don’t we --

COMMISSIONER DOBSON: We’ll table it until --

CHAIR JAMES: Well, that’s easy enough to do right now, if we can. What was that -- we can get it done and out of the way. Commissioner Bible, what would that say -- "working for or" --

COMMISSIONER BIBLE: "Representing gambling interests that the regulator had responsibilities for during their tenure of employment" -- what I advocated was much more specific in terms of knowledge gain, worked on audits, and things of that nature -- possession of trade secrets. I think it could be expanded here.
CHAIR JAMES: With that understanding --

COMMISSIONER BIBLE: I can get some more precise language.

CHAIR JAMES: With that understanding, could we go ahead and in good faith vote on that, let Bill work on that language so that we can clear this up and not have one more?

COMMISSIONER BIBLE: One year.

CHAIR JAMES: Would you accept "for one year"?

COMMISSIONER DOBSON: Yes, I will. Obviously, I would like it to be longer, but I don’t hear support for that, and so I would accept it.

COMMISSIONER LANNI: I would second that.

CHAIR JAMES: So moved. All in favor?

(Chorus of ayes.)

CHAIR JAMES: All opposed?

COMMISSIONER WILHELM: No. I’ll abstain.

CHAIR JAMES: We have one abstention.

VOICE: So it’s 7, 1, and one abstention.

COMMISSIONER WILHELM: No, I just abstain.

(Simultaneous discussion.)

CHAIR JAMES: 3.25, "The Commission recommends that states should conduct periodic reassessments of the various forms of gambling permitted within their borders, for the purpose of determining whether the public interest would be better served by limiting or eliminating one or more of these forms". Is there a motion?

(No response.)

Hearing none, 26, "The Commission recommends that Congress consider legislation requiring a compact between any two
or more states in cases where a gambling facility is planned for a location within 50 miles of the border of a neighboring state".

COMMISSIONER LEONE: It’s the compact’s recommendation later on that looks like it turns it around.

COMMISSIONER BIBLE: Do you know the number?

COMMISSIONER LEONE: Does anybody know the number off-hand? I thought I had it here.

CHAIR JAMES: Let’s table that until the staff can find it, and then we’ll come back to that and look at those two together.

COMMISSIONER DOBSON: 3.44.

CHAIR JAMES: You found it?

COMMISSIONER LEONE: Yes. I like 3.44, and I think it’s more practical than this one.

COMMISSIONER LANNI: I don’t like either one of them.

COMMISSIONER DOBSON: That happens to be my suggestion, so I will move that we accept 3.44.

CHAIR JAMES: We just have eliminated 3.26.

COMMISSIONER DOBSON: That’s right.

CHAIR JAMES: We’ll get to 3.44 when we get there, unless you want to consider it now.

COMMISSIONER DOBSON: No.

CHAIR JAMES: Okay. "The Commission recommends that individual states should pass legislation requiring a regional impact assessment measuring both the positive and negative impacts of gambling on the surrounding area within a 50-mile radius prior to any introduction or expansion of gambling within the state."

COMMISSIONER LEONE: I’ll move it.

CHAIR JAMES: It has been moved. Is there a second?
COMMISSIONER McCARTHY: Second.

CHAIR JAMES: It has been moved and seconded.

Discussion?

COMMISSIONER WILHELM: I have a problem with this in the context of everything else we’ve said. We have agreed on very dramatic language that says nobody knows. We’ve said nobody knows what the real social impact is. We’ve said nobody knows what the real social cost is. There’s some among us saying nobody knows what the economic benefits are -- a majority of us say that.

So, what is it that this impact study is going to say? Is it going to say, "Gee, nobody knows?" I mean, throughout everything we’ve approved so far, we have said people don’t know, there’s got to be a great deal more research. We have also said that there ought to be a moratorium to consider it in some communities, and that nationally there ought to be a pause because we don’t know. So, what is it that states are supposed to study? Nobody knows. I’m puzzled by this.

I’m not against the concept of recommending that states ought to think about the implications of doing this stuff, I’m for that, but I don’t understand what it is they are going to study if nobody knows.

COMMISSIONER LEONE: Well, because I think we don’t want to despair of ever knowing more, then the argument for empirical research, it seems to me, is compelling, and the empirical research on social and economic impacts will come out of the accumulation of properly conducted studies of these types, along with other kinds of research. I don’t think we want to say -- I don’t believe that the answer to the limits of our knowledge is that therefore states should, to coin a phrase, "flip a coin"
to decide whether or not to introduce additional gambling. I think they should try to add to the sum-total of human knowledge about it, and particularly focused on their own areas, before making a judgment.

I can’t see -- more information might strengthen the case for gambling, or it might weaken it, but it’s got to be desirable.

COMMISSIONER DOBSON: Madam Chair.

CHAIR JAMES: Commissioner Dobson.

COMMISSIONER DOBSON: 3.27 and 3.28 are very, very similar, I think 3.28 is better. There’s no sense going through these one at a time if they are right along the same line.

COMMISSIONER LEONE: I agree with Jim. I’ll withdraw that motion.

CHAIR JAMES: Okay. 3.27 has been withdrawn. 3.28, "The Commission recommends that the" -- will the seconder agree to that? Who was that?

DR. KELLY: Yes. It was McCarthy.

CHAIR JAMES: Okay. "The Commission recommends that the regulatory agency charged with the approval of a proposed gambling facility should prepare and file a comprehensive gambling facility impact study report, to be paid for by the sponsoring or promoting gambling organization, to evaluate the impacts that would be experienced by the host community as well as other communities within a 50-mile radius, as a condition precedent to the approval of a new gambling facility."

COMMISSIONER WILHELM: Well, I have the same problem with this one as the last one. I’m not against the notion that --
CHAIR JAMES: Before we go there, do we have a motion?

We may not have to discuss it.

COMMISSIONER WILHELM: I’m sorry.

COMMISSIONER LEONE: I’ll move this one.

CHAIR JAMES: Okay. Is there a second?

COMMISSIONER DOBSON: Second.

CHAIR JAMES: It has been moved and seconded. Now.

COMMISSIONER WILHELM: I have the same problem with this one as the last one. I don’t have a difficulty with the notion of recommending that jurisdictions ought to -- and I think it should say "jurisdiction", not "regulatory agency" -- but -- because, for example, in the Tribal setting, it is not the regulatory agency that makes this approval. It’s not even the Tribal regulatory agency. But with that small caveat, I don’t have a problem with the notion that people ought to take a look at these things to the extent possible, but, again, if we’ve said we don’t know, I think we’ve got to at least say something like "to the extent possible to evaluate the impacts", or something like that.

And then with regard to this one, different from the last one, we have -- I realize that all of us, myself included, use colorful rhetoric when it tends to suit our purposes, and not other times, but the number of other places in here where we’ve used colorful rhetoric, which I don’t necessarily agree with, about the evils of having gambling organizations pay for various kinds of studies because they are ipso facto suspect, and you can find that in a number of places in stuff that we’ve already talked about and even approved.

So, I think we need to be a little bit consistent on both of these issues -- that is to say, we’re either going to say
things ought to be paid or sponsored by gambling organization and
that that’s good, or else we should not say that, and we
shouldn’t say different things in different sections of the
report. And, secondly, I don’t see how we can ask people to
evaluate the impacts, period. I think we’ve got to say something
like "to the extent possible", or something like that.

COMMISSIONER LANNI: Madam Chair.

CHAIR JAMES: Commissioner Lanni.

COMMISSIONER LANNI: I think if you go back to that
famous 5-to-4 vote on the moratorium and you look at the language
there, that more than covers this. This limits it to a 50-mile
radius, but basically in the pause you’re supposed to be looking
at things. In consideration of the fact -- and I think John
mentioned it earlier -- if we make so many recommendations -- and
it may well be argued with or without recommendations we may be
little remembered nor long thought of at all relative to this --
but if we make so many recommendations -- I think this is a
limiting one. I think you have a better one, even though I voted
against it because of the word "moratorium", and didn’t get the
opposite -- I think if you go back to 3.14, it more than
encompasses it, so I will not be in a position to vote for this.

CHAIR JAMES: Commissioner Dobson.

COMMISSIONER DOBSON: Yes. Developers are obviously
required to file an environmental impact report when they want to
change the landscape. Why would it not be appropriate for
gambling enterprises to look at the impact on people and the
surrounding culture? I think that is an extension of the same
idea.

COMMISSIONER LOESCHER: Madam Chair.

CHAIR JAMES: Commissioner Loescher.
COMMISSIONER LOESCHER: Madam Chair, these two proposals sort of remind me of the story of the horse -- you know, you’re closing the gate after the horse has ran away -- and here you have people who are responding, complying with public policy/law that is in place, made by legislators and governors and Congress people, and you’re putting the burden on them.

The burden isn’t on them, the burden is on the public policymakers who allow these laws to get enacted and allow them to be continued. Let’s look at it. This could get down to bingo operators, Class II bingo people, charitable organizations, church groups, whatnot. This thing impacts the convenience store business that we don’t like very much, but there’s thousands of them. But there’s a law that’s in place that allows these things to happen. The business of lottery outlets -- you know, if you take this language, you can go to the extreme. Every place that purveys this kind of activity can be subject to this language. And I think this is a bottoms-up approach when really we should be speaking to the Congress, to the state legislators, to governors, and whatnot, to address the overall public policy, not trying to deal with the horse after the gate is closed.

COMMISSIONER MOORE: Madam Chair.

CHAIR JAMES: Commissioner Moore.

COMMISSIONER MOORE: If we wanted to go along with this, why not let the state pay for it? It would be paid for by the state or the county and, by God, that would get the interest. If the people in the county didn’t want gambling, they probably wouldn’t want to pay for it. Or if the people in the state didn’t want gaming -- if the states want gaming and you don’t mind it, let the states pay for it.

CHAIR JAMES: Are you recommending a change in this?
COMMISSIONER MOORE: If it comes to -- has it been seconded?

CHAIR JAMES: It has been. It’s Leone and Dobson who control the recommendation.

COMMISSIONER MOORE: Then I would recommend that we let the states pay for it.

COMMISSIONER DOBSON: Again, going back to the analogy of the developer, it would not make sense to me to have the state pay for new development report, environmental impact report, it would be new development. I think the new enterprise that stands to gain from this approval or license should be the one to pay for it.

COMMISSIONER MOORE: Well, in our state, we have a program that’s called -- I suppose it’s still there, or a version of it -- an old former governor -- we have a BAWI, balance agriculture with industry. And all industries that come into our state except gaming -- I think I’m correct -- we will do away with the taxes, everything except school taxes, for five years, or maybe ten years, to encourage them to come -- Chevron, places of that nature. And so if the states -- all of us say -- I mean, the reason I think that this Commission is in existence, the Federal Government perhaps thought that maybe gaming was expanding too fast. Well, it isn’t now. I thought that’s what this Commission was about, to study the social and economic impact.

So, if the states desire this, this will wake the people up if they don’t want it.

CHAIR JAMES: Commissioner Leone.

COMMISSIONER LEONE: I’m having difficulty understanding some aspects of this discussion, even though I
think Terry has a point that the moratorium, by implication, suggests that you have to look harder and know more before you move further down the path towards more gambling.

I would have thought that it would be relatively controversial to say that before a specific permission is granted, a new exception to permit gambling, that there should be a study of its impact on the area in which it will be implemented. Indeed -- I didn’t write this recommendation, but I could imagine one that got much more specific about how to make that rigorous investigation. In fact, in the real world, of course, people prepare reports all the time, arguing the advantages and disadvantages during a fight about legitimizing some new gambling activity.

I can’t really conceive of why this Commission would be reluctant to say that, as a matter of routine, the decision to expand gambling, however that is qualified, should be preceded by a study of what we can find out about its likely pluses and benefits. I think, as I said, that that’s not a revolutionary suggestion, that it’s customary and, indeed, the greatest weakness in this suggestion is that it doesn’t suggest any way to move beyond the kind of boilerplate stuff that is thrown up now by both sides when gambling is being debated. I mean, as a practical matter, as I have learned since I came on this Commission and begun to follow these things, when there’s an actual fight going on, you know, people are not only hurling studies at each other, they are hurling rocks and epithets, but I suppose that I see this as part of -- maybe this is part of the research agenda, but it’s a disciplined routine process that would go on and, over time, there is some learning involved. You know, research on socio-economic issues is not like science, but
it does get better over time, as you try things and you learn more about it. I see this in that context.

COMMISSIONER BIBLE: Well, I look at the recommendation as being way overly broad in terms of application in the way it’s crafted. Where it indicates a proposed gambling facility, you treat a casino with 500 slot machines and 75 table games the same as you would a convenience store that’s going to put in a lottery terminal and the enormous economic impact on them, to conduct this gambling impact study, which just seems to me to be completely unreasonable.

CHAIR JAMES: Commissioner Wilhelm.

COMMISSIONER WILHELM: I do not agree with the concept that Richard is describing here. And I also respectfully disagree with what Bill just said. I think that the impact of slot machines in a convenience store is actually a good deal of analysis. Now, it may be that that analysis in certain places is "well, it’s all over the place anyway, what difference does it make", but nevertheless I don’t disagree with the concept this stuff deserves analysis. I was trying to make points that did not go to the overall concept. And, again, I think we’ve got to be consistent in this report. I think we’re going to totally confuse anybody who bothers to read this -- if, indeed, anyone does -- if on one page we are saying that there’s no present-day real way to actually assess the impacts and on another page we’re saying you’ve got to assess the impacts. I think we’ve got to reconcile those, which I think is not that hard. I think, you know, we say something like "To evaluate to the extent possible", or something like that, the impacts.

Secondly, I don’t think we ought to be saying on one page that sponsoring organizations ought to be paying for stuff,
and then saying on a different page that when sponsoring organizations pay for it, it’s disgusting and outrageous and useless, which we do say someplace in here, in some of the stuff we’ve already drafted.

And on the particular point of how this is done in the development business, there’s actually multiple models. In some jurisdictions, as Jim says, the developer is required to sponsor and pay for and produce a study, and what then happens is those opposed say, well, that study is biased, it was paid for by the developer. In other jurisdictions, the public entity -- for example, the Army Corps of Engineers does this all the time -- produces a study of the impact, and then people on both sides attack that and say, well, they didn’t know what they were doing, they are government.

So, I support the concept to the extent possible, of suggesting that jurisdictions, not regulatory agencies, evaluate the impacts of additional gambling facilities. I think that makes a great deal of conceptual sense. But I do think we need to be consistent in this report. We can’t just use whatever rhetoric is convenient on whatever page we’re on.

CHAIR JAMES: May I suggest that we add this to our list of tabled motions, rather than --

COMMISSIONER DOBSON: Madam Chair, are we close on this one?

CHAIR JAMES: Well, I was going to suggest Dick has volunteered to work on some language that he could bring back to us, maybe later today or first thing tomorrow morning. And if we can do that, then we can simply vote on it and move on. If you’d like to stay at it, I’m willing to stay and work on the language right now, or we can table it, let Commissioners work on it --
COMMISSIONER DOBSON: Everything depends on how close we are. It just felt to me like we could get it done. We’re going to have an awful lot to do to come back.

CHAIR JAMES: What did you think you heard that was close? And if we can get that and we’re there, then we can move on.

COMMISSIONER DOBSON: Well, I would have to have Richard restate what he said.

COMMISSIONER LEONE: Well, I’d need a little time to think about how to phrase this.

COMMISSIONER DOBSON: Okay.

CHAIR JAMES: But he is willing to do that. And as soon as he does, we’ll bring it back up.

COMMISSIONER LANNI: Madam Chair?

CHAIR JAMES: Mr. Lanni?

COMMISSIONER LANNI: While he’s doing that, I might ask also, even though I’m opposed to this, I think he should try to find for us what a new gambling facility is.

COMMISSIONER LEONE: Yes. That’s part of the reason I’m going to --

COMMISSIONER LANNI: Right.

COMMISSIONER LEONE: -- five slot machines or replacing six slot machines, and that would be defined as a new facility.

CHAIR JAMES: With that, 3.29, the Commission recommends that gambling cruises -- "cruises to nowhere" should be prohibited unless the state passes legislation specifically legalizing such. Is there a motion?

COMMISSIONER MOORE: Which one are we on? 29?

CHAIR JAMES: We are on 3.29, cruises to nowhere. The Commission recommends that gambling "cruises to nowhere" should
be prohibited unless the state passes legislation specifically legalizing such.

COMMISSIONER LEONE: So there will be no more Commissions like this?

(Laughter.)

CHAIR JAMES: We’re going somewhere, too. Just hold on.

COMMISSIONER DOBSON: Madam Chair?

CHAIR JAMES: Commissioner Dobson?

COMMISSIONER DOBSON: I have substitute language for this one because it’s awkward in the way it’s stated.

CHAIR JAMES: Would you like to go ahead and substitute that language at this point?

COMMISSIONER DOBSON: I would.

CHAIR JAMES: Okay.

COMMISSIONER DOBSON: The Commission recommends that gambling "cruises to nowhere" should be prohibited, unless the state from which the cruise originates adopts legislation specifically legalizing such cruises.

COMMISSIONER WILHELM: May I ask an informational question before we get into this?

CHAIR JAMES: Yes, you can. Go ahead.

COMMISSIONER WILHELM: Personally, I would support this if it’s doable. I mean, the State of Massachusetts suddenly has, you know, boats sailing out of Gloucester with gambling when nobody in Massachusetts decided to do that.

But I was under the impression -- and this is certainly not an area of expertise that I claim -- but I was under the impression that when a boat goes out beyond the territorial
waters that nobody can regulate what goes on on that boat at that

time. So how could this be done, as a practical matter?

COMMISSIONER DOBSON: I’m not sure, but there is a bill

in Congress to do this. It must be possible.

(Laughter.)

CHAIR JAMES: I’m not sure I’d go out on that limb.

COMMISSIONER LANNI: I don’t think there has been a

second.

CHAIR JAMES: There has not been a second. It was

moved. It’s an informational question, so that we could decide

whether or not someone wanted to second it.

Aren’t there -- and this is an informational question

as well. Aren’t there some states that have legislation, those

of you who may know a little more about this, that prohibits such

cruises from leaving from their docks?

COMMISSIONER LEONE: Yes, there are.

COMMISSIONER BIBLE: You probably can get it by

outlawing possession of gaming devices within your borders.

COMMISSIONER LEONE: There is some way that they’ve been able to block people from tying up and loading in the first place.

CHAIR JAMES: Yes.

COMMISSIONER LEONE: But I think John is right. You can’t do anything about the fact that once somebody has done that, if they go out of the territorial limits --

COMMISSIONER BIBLE: Because California took some action. I don’t recollect what it is, but --

COMMISSIONER LEONE: But I think we can’t make a recommendation here without, you know, some staff work that indicates what the situation is.
CHAIR JAMES: Jim, I think I hear that there is some consensus for doing something like that. We just need to make sure that whatever we’re doing passes -- is consistent with the law.

COMMISSIONER DOBSON: Yes.

CHAIR JAMES: So could I assign that one to you for staff to take you --

COMMISSIONER DOBSON: Sure.

CHAIR JAMES: -- and your staff to take a look at and --

COMMISSIONER DOBSON: That would be fine.

CHAIR JAMES: -- and you can clarify that. We can just vote on it quickly when that’s resolved.

COMMISSIONER DOBSON: We’ll just get the Congress to explain to us.

CHAIR JAMES: What they mean.

COMMISSIONER WILHELM: I would just also -- I don’t mean to prolong this, Kay, but I would just want to say for the record that this could fall into the category that Richard was talking about earlier today where logic, you know, suggests that we should do this. And it might be in that category.

But even though I am personally sympathetic to this recommendation, it is squarely in the area that I have a grave concern about, which is us making recommendations about subjects upon which we have no record at all. I don’t believe this ever came up in the course of our discussion that I can recall.

CHAIR JAMES: Okay. With that, Jim, if you could work on that --

COMMISSIONER DOBSON: Okay.
CHAIR JAMES: -- and when it comes back up, we will discuss it at that time.

3.30, the Commission recommends that full disclosure of odds and warning should be required on all forms of gambling advertising, as well as the posting of toll-free help-line numbers. Could that one somehow be combined --

COMMISSIONER MOORE: We already have it, I think.

CHAIR JAMES: -- with -- well, we talk about machines.

We didn’t talk about advertising, I think, is --

COMMISSIONER BIBLE: Yeah, you’re right. They should be combined.

CHAIR JAMES: It was 3.21.

COMMISSIONER McCARTHY: Madam Chair, why don’t we just ask the staff to do that, and then --

COMMISSIONER BIBLE: But I think we need to have a little direction in terms of gambling advertising. Are they talking about advertising that is paid for by gambling facility or operator, or is it advertising that deals --

CHAIR JAMES: By the state.

COMMISSIONER BIBLE: -- with gambling?

COMMISSIONER LANNI: That was the point I was going to raise. I mean, if we have Barbara Streisand on New Year’s Eve, and we have an advertisement for her to come to see her in Las Vegas, it has nothing to do with gambling directly. I don’t think that’s the intent to -- although with what we’re paying her, it is a gamble. That’s --

(Laughter.)

COMMISSIONER WILHELM: That is true. That is true. No doubt about that.
COMMISSIONER LANNI: In fact, Barbara is tougher than any Commissioner on this Commission.

(Laughter.)

CHAIR JAMES: Wait a minute, Terry. You’ve never heard me say --

(Laughter.)

COMMISSIONER McCARTHY: How are you advertising those one-round fights? Do you have any of those?

CHAIR JAMES: Those one-round fights?

COMMISSIONER LANNI: We’ve had a series of one-round fights.

CHAIR JAMES: What was the intention here? And if we can modify it to reflect sort of the will of the Commission, that would be great, if we could move on that.

COMMISSIONER BIBLE: It has to originate from lotteries, I would think, some concern about lottery advertising.

CHAIR JAMES: Well, I’m not sure.

COMMISSIONER BIBLE: Well, at this point, the only advertising that’s legal is gambling and tribal gambling.

COMMISSIONER WILHELM: Well, a number of commissions have suggested that lotteries should be required to advertise their odds. Richard and others have raised that.

CHAIR JAMES: Can we pass this one, until we get to lotteries, to see if there is a more appropriate suggestion? There are several on advertising that will come up a little later. If not, I would ask the Commissioner who suggested this one to bring it back up later, if we don’t get that issue taken care of. Can we pass that one? Anybody object?

COMMISSIONER LOESCHER: Wait. What are you passing? This one? 3.30?
CHAIR JAMES: 3.30.

COMMISSIONER LOESCHER: Well, I object.

CHAIR JAMES: Okay. Well, then, let’s vote.

COMMISSIONER LOESCHER: You know, you say all forms of gaming or -- you know, we have horse racing, we have bingo, we have lotteries, we’ve got everything, you know. Are you going to do this kind of disclaimer on every form of advertising there is, if it’s charitable gaming?

CHAIR JAMES: Well, let’s do this. Since we are moving now from points of clarity and language, that what I need to hear for this, then, is a motion. Would someone move that the Commission recommend 3.30? Hearing no such motion, we don’t have to pass it. We just -- there is no will to do it.

3.31, the Commission recommends that advertisement for forms of gambling legal in one state should not be permitted in states where those activities are illegal.

COMMISSIONER LANNI: Just a point of information, I think that’s interstate commerce. I’m not so sure we’re in a position to make --

CHAIR JAMES: Well, is anybody making it?

Okay. 3.32, the Commission recommends that citizens of each state with government-sponsored gambling be afforded the right to sue the state government for violation of clearly-stated advertising standards for state-run gambling operations.

COMMISSIONER McCARTHY: That was my brilliant idea.

COMMISSIONER LANNI: I don’t think I would have admitted to that, Leo.

COMMISSIONER LOESCHER: I raise a point of order to your calendar, your agenda. Is lunch on the agenda?

CHAIR JAMES: We’re --
Lunch is at 12:30. We’re going to get there.

COMMISSIONER LOESCHER: It’s at 12:30?

CHAIR JAMES: Yes.

COMMISSIONER McCARTHY: This one is going to take -- this one will take about an hour or so. Is that okay?

CHAIR JAMES: No.

COMMISSIONER WILHELM: Commissioner Loescher had a 4:00 a.m. airplane night. I think he --

(Laughter.)

CHAIR JAMES: Oh, yeah.

COMMISSIONER LEONE: I have a question for Commissioner McCarthy. What is the law in this area?

COMMISSIONER McCARTHY: There is no law. This is -- I think this came up during the course of a discussion with the advertising panel.

CHAIR JAMES: But is anybody making this --

COMMISSIONER McCARTHY: I am not making a motion.

CHAIR JAMES: Okay. Well, then, we don’t need to spend time there. The Commission recommends that states with lotteries include a tax with each lottery ticket sold to make purchasers conscious that they are indeed paying a tax. If it looks like a tax --

COMMISSIONER LEONE: Okay. I --

CHAIR JAMES: Are you making that motion?

COMMISSIONER LEONE: Yeah, I move it. And I will explain why.

CHAIR JAMES: Is it seconded? Well, let’s see if we get a second for it. Is there a second? Okay.
COMMISSIONER LEONE: I think that it’s only just that we do this. The states explained that they use the lotteries for all of these good purposes -- widows, orphans, children, things that otherwise would never happen. And they never explained that the consequences of lotteries include presumably the generation in pathological gamblers, and I think there ought to be a way to remind people explicitly by having an earmarked tax for dealing with problem gambling as part of the process of buying a lottery ticket.

As I said when I mentioned this the first time, I want it to be visible. I want it to be an irritant. I want it to be a little piece of sand in the wheels that generate this 50, 60, 70 percent effective tax rate in a highly regressive fashion. That is, in fact, what a lottery represents.

And I know there are people here who feel there is no such thing as a good tax. There are people who feel it just -- it would be more efficient to simply allocate some of the existing revenues for lotteries for these purposes.

But I think one of our -- if there is a single purpose to this Commission, it is to bring to the attention of the American people things about gambling that are not receiving sufficient thought. And I’d like to have that happen every day in every way in lots of states. Do I think this will be adopted? Probably not. But I think it’s well worth considering.

And I appreciate the second, Mr. McCarthy, particularly on this one.

COMMISSIONER BIBLE: Question on --

CHAIR JAMES: Are you calling for the question?

COMMISSIONER LEONE: Yeah.
COMMISSIONER BIBLE: I think on this one this one is pretty tough. I think we talked about it before. I don’t think you achieve your objective by making it an irritant, because it will just be absorbed in the pricing structure. So if the ticket is a dollar, and you add a five percent tax, instead of charging $1.05, they’re just going to reprice the ticket, sell it for a dollar, and dedicate the five cents to the lottery.

COMMISSIONER LEONE: Were you ever in government when you raised the sales tax --

COMMISSIONER BIBLE: Oh, yeah.

COMMISSIONER LEONE: -- a penny?

COMMISSIONER BIBLE: Oh, yes.

COMMISSIONER LEONE: Did people seem to notice?

COMMISSIONER BIBLE: Well, a lot of people did, yeah.

COMMISSIONER LEONE: Did it become a political issue?

COMMISSIONER BIBLE: Yes. But in this term, they’re just going to reprice --

COMMISSIONER LEONE: I want to make lotteries a political issue. I have four or five ideas about the way we might make lotteries a political issue, because lotteries are --

COMMISSIONER BIBLE: Richard, they’re just going to reprice the ticket, and you’ll probably end up making your purchase of a lottery ticket tax deductible at the federal level.

(Laughter.)

COMMISSIONER LEONE: Bill, I just -- I retain some of your boyish idealism about the fact that if you make things issues, you sometimes get a good decision out of the American people.

CHAIR JAMES: Commissioner Moore, did you --
COMMISSIONER MOORE: No. Well, Bill went on it from the other way. Most of the athletic tickets and theater tickets that you buy, you know, the price of an athletic ticket at University of Mississippi, I believe at the present time, a football game is $24. And then it has a breakdown of how much is for amusement tax, how much is state tax, and all of that, and it’s subtracted, instead of taking the $24 ticket and adding all of that on top and making it $27.70.

So if they sold a lottery ticket for a dollar, and then -- I would like to say, then, if you’re going to put a tax on it, a 10 percent tax, then maybe it will make the lottery say that instead of $20 million, it would be $20 million, but the tax you’re paying now has brought it down to $22 million some way, because you’re not really paying a full dollar for the prize that you’re going to win. You’re only paying 90 cents.

And so those jackpots could be reduced likewise, because I think the larger the jackpot the more play you get. I mean, that’s my -- what I hear people talk about. So you need to cut -- if we could cut the jackpot --

COMMISSIONER LANNI: I move the question.

CHAIR JAMES: Move the question. All in favor?

(Ayes.)

All opposed?

(Nays.)

CHAIR JAMES: Oh, we’re going to need a roll call.

Commissioner Bible?

COMMISSIONER BIBLE: No.

CHAIR JAMES: Commissioner Dobson?

COMMISSIONER DOBSON: Yes.

CHAIR JAMES: Commissioner Lanni?
COMMISSIONER LANNI: No.

CHAIR JAMES: Commissioner Leone?

COMMISSIONER LEONE: Yes.

CHAIR JAMES: Commissioner Loescher?

COMMISSIONER LOESCHER: Abstain.

CHAIR JAMES: Commissioner McCarthy?

COMMISSIONER McCARTHY: Aye.

CHAIR JAMES: Commissioner Moore?

COMMISSIONER MOORE: Aye.

CHAIR JAMES: Commissioner Wilhelm?

COMMISSIONER WILHELM: No.

CHAIR JAMES: Commissioner If-It-Looks-Like-a-Tax

James says no. One, two -- the motion fails.

Okay. One, two, three, four, and one abstention -- oh, yeah, it is a tie. So it’s a tie. It fails to be adopted.

Okay.

COMMISSIONER McCARTHY: Madam Chair, I move we go

without lunch today.

(Laughter.)

CHAIR JAMES: I have found the secret to this

Commission. Keep them hungry and they go right through.

Having said that, it is time for lunch.

I would just have this observation about our morning.

We have nine tabled motions that various Commissioners will work

on. My suspicion is that with a little bit of tweaking we can

get where we need to be on those various motions. If not, I will

bring them back up for a vote this evening, this afternoon, at

the end of the day.

I will remind Commissioners as we break for lunch what

those various motions are. For the benefit of those who are
following this proceeding, they were 3.3, 3.6, 3.8, 3.10, 3.11, 3.12, 3.15, 3.28, and 3.29. It may appear that we have not made a great deal of progress. However, I believe that we have because of several that we adopted that will eliminate quite a few later on in the day.

I thank the Commissioners for their commitment, and we will reconvene in exactly one hour, 1:30. Thank you.

(Whereupon, at 12:28 p.m., the proceedings in the foregoing matter went off the record for a lunch break.)
CHAIR JAMES: Please take your seats. With that, we’ll pick up where we left off. I would remind Commissioners that -- and for those of you who are following these deliberations, that these are recommendations that have come from a variety of sources.

Some of them are recommendations of individual Commissioners. Some have been pulled from transcripts. Some have come in by way of letter or e-mail. There was not any attempt to edit them. I read them as they stand. If there is no motion on the recommendation, it dies and I move on to the next one.

I recognize that some of the recommendations that we will cover this afternoon have been addressed in other places. I will simply read them. If we are, as a Commission, content with the fact that that issue has been dealt with, my suggestion is that we not open that up for discussion again, that we simply move on.

With that, we are at 3.34. The Commission recommends that states, tribes, and local governments declare a moratorium on the introduction of new lottery games in those states which already have lotteries, and to refrain from introducing them in those states which presently do not have lotteries. Is there a motion?

Hearing none, the Commission recommends that states with lotteries reduce their sales dependence on low income, less educated minorities and heavy players in a variety of ways, including limiting advertising and number of sales outlets in low income areas. Is there a motion?

COMMISSIONER DOBSON: Moved.
CHAIR JAMES: Is it seconded? Hearing none, the
Commission recommends that states with lotteries create a private
citizen oversight board. The board would make data-based policy
decisions on types of games to offer marketing strategies to
follow, etcetera. As I said, I don’t edit them.

COMMISSIONER BIBLE: I’ll move that.

CHAIR JAMES: It has been so moved. Is there a second?

COMMISSIONER McCARTHY: For the purposes discussion.

CHAIR JAMES: For purposes of discussion, Commissioner Leo McCarthy seconds. We’re ready for discussion.

COMMISSIONER BIBLE: Some states already do this. Most states do not. What this would do would be to recommend that all states create a policy-making board that would oversee the state lottery and set practices for advertising and marketing and where the games are marketed, which would be somewhat similar to the recommendation in 3.35.

CHAIR JAMES: Any further discussion? Are you --

COMMISSIONER McCARTHY: I do. There’s a basic point here in a couple of these, as Commissioner Bible just pointed out. It’s an attempt, I think, to separate the regulatory from the promotional side within state government. I’m not sure that’s what Mr. Bible had in mind, but I think that’s what is suggested in one or two others that I’ve read here.

COMMISSIONER BIBLE: Well, what I was suggesting was that you create a board of directors of the state lottery that, in effect, would be the policy and regulatory board, to a large extent, for that lottery that would set the policy as to all of that lottery’s practices. It would not necessarily be the Chairman of the Ways and Means Committee saying, "Hey, you know, we need to generate another $100 million. Can you do it for us?"
COMMISSIONER McCARTHY: How many states are there that
don’t have boards of directors like that now? Do you have any
idea?

COMMISSIONER BIBLE: That I don’t know. We had some
information supplied to us by the lottery directors, and I just
don’t recollect the information. I do recollect it was fairly
specific information that indicated there was four or five states
that had particularly effective regulatory boards or independent
boards that oversee the work of the lottery.

COMMISSIONER McCARTHY: California has a board, I know.

COMMISSIONER BIBLE: Don’t know.

COMMISSIONER McCARTHY: It does, yeah.

CHAIR JAMES: Any further discussion? Call for the
question. All in favor?

(Ayes.)

Any opposed?

(No response.)

The Commission recommends that states with lotteries
improve their enforcement procedures regarding age limits for
playing the lottery. Is there a motion?

COMMISSIONER BIBLE: Well, I will move that.

CHAIR JAMES: Is there a second?

COMMISSIONER DOBSON: Second.

CHAIR JAMES: It has been moved and seconded.

COMMISSIONER WILHELM: Could I just ask whether the
next one might not be more comprehensive or something? I don’t
have any problem with this one. I am just trying to avoid
duplication.

CHAIR JAMES: It is. And that one I think is worded
much more comprehensively. Would the maker of the motion --
COMMISSIONER BIBLE: I like it better.

COMMISSIONER DOBSON: I will --

CHAIR JAMES: Well, then, we will pass that one and move to 3.38. The Commission recognizes that lotteries and convenience gambling may play a significant role in the development of youthful gamblers. Further, the Commission recommends that states, tribes, and local governments enact and enforce harsh penalties for abuse in this area involving underage gamblers. Penalties and enforcement efforts regarding underage gambling should be greatly increased.

COMMISSIONER BIBLE: I’ll move that.

CHAIR JAMES: So moved. Second?

COMMISSIONER DOBSON: I second it.

CHAIR JAMES: It has been moved and seconded. Discussion?

COMMISSIONER BIBLE: Well, this is a much broader recommendation. We’re already on record indicating that all forms of legalized gambling should only be available to someone who is 21 years or older.

And I think it’s appropriate, especially in the areas of lotteries -- and I consider lotteries to be a form of convenience gaming -- that they be appropriately policed to prevent youthful gamblers from engaging in that activity.

I think as you enforce it, you enforce it not only against the operator of the game who may encourage or may not take positive steps to discourage youthful participation, but you also enforce it against the individuals that challenge the game, the minors that have victimized the convenience gaming operation.

COMMISSIONER McCARTHY: May I ask a question?

CHAIR JAMES: Certainly.
COMMISSIONER McCARTHY: We’ve sort of touched this in a couple of previous discussions. I like this language very much. Why don’t we apply it to all forms of government-owned and operated gambling? Why do we limit it to these two areas, even if we think it’s more needed in these two areas? And there is some indication that it is needed more in lotteries because it is less regulated.

COMMISSIONER BIBLE: Okay. If you --

COMMISSIONER McCARTHY: And it --

COMMISSIONER BIBLE: -- just government-owned and operated, you’re not going to pick up convenience gambling.

COMMISSIONER McCARTHY: I’m sorry. I didn’t mean to exclude the convenience gambling. Just I -- let me remove my limitation. I mean --

COMMISSIONER BIBLE: All forms of gambling?

COMMISSIONER McCARTHY: Yeah.

COMMISSIONER LANNI: The standard language that we’re looking for.

CHAIR JAMES: Right.

COMMISSIONER LANNI: The standard language.

CHAIR JAMES: Correct.

COMMISSIONER McCARTHY: Yes.

COMMISSIONER WILHELM: Well, I don’t have any problem with that approach, with respect to the second and third sentences. I think that there is a record here to support the first sentence as it stands. Now, I don’t know how we make all of this fit together.

But in other words, I think there is a record here to suggest that lotteries and convenience gambling may indeed play a significant role in the development of youthful gamblers. After
that, I would support, as Leo was suggesting, applying these next
two sentences to all forms of gambling, which I don’t know quite
what to --

COMMISSIONER BIBLE: Well, my suspicion would be that
lotteries and convenience gambling is less well policed than
other forms of gambling. I believe that was one of the findings
in the NORC survey where they indicated casinos were very good at
policing, or the most effective in policing youthful gambling
within their premises. But if it’s broadened out, I think we
ought to give some increased emphasis to lotteries --

COMMISSIONER McCARTHY: That’s fine.

COMMISSIONER BIBLE: -- and convenience gambling, but I
think it should --

COMMISSIONER McCARTHY: Especially since --

COMMISSIONER BIBLE: But I think it should apply to all
forms of gambling.

CHAIR JAMES: Do either of you have any recommended
language --

COMMISSIONER WILHELM: Yeah.

CHAIR JAMES: -- that would get us there?

COMMISSIONER WILHELM: Yeah. What if we leave the
first sentence like it is, and then we say, "With respect to all
forms of gambling, the Commission recommends that states, tribes,
and local governments enact and enforce harsh penalties,"
etcetera?

CHAIR JAMES: With respect to all forms of gambling.

COMMISSIONER McCARTHY: That’s fine. That’s fine.

COMMISSIONER LANNI: We have said before with all forms
of legalized gambling.

CHAIR JAMES: All forms of --
COMMISSIONER WILHELM: True.

CHAIR JAMES: -- legalized gambling. Having said that,
Commissioner Dobson?

COMMISSIONER DOBSON: Well, we’ve had testimony several
times, including the conclusions from the NRC, that all forms --
that young people get involved in all forms of legalized
gambling, including casinos, and especially riverboat casinos.

COMMISSIONER WILHELM: Well, our research shows that
it’s minuscule in the casino area.

COMMISSIONER BIBLE: And I think it would be less in
the riverboat area because they control access over our
gangplanks.

COMMISSIONER DOBSON: Well, I remember the reports.
Some of them may have been your favorite State of Louisiana, as I
recall.

COMMISSIONER McCARTHY: We just amended this to apply
to the sentence that says that -- that all governments enforce
and enact harsh penalties for abuse in this area, regarding
underage to all forms of legal gambling.

COMMISSIONER DOBSON: Well, I can live with that.
Obviously, the first sentence there is -- by not mentioning other
forms of gambling, you’re assuming that they don’t play a role --
a significant role in the development of youthful gamblers. And
I think they probably do, and I think we’ve got testimony to that
effect.

COMMISSIONER LANNI: However --

COMMISSIONER MOORE: I believe we’ve got that covered
elsewhere. That’s covered.

CHAIR JAMES: Okay. The motion, as it stands right
now, is the Commission recognizes that lotteries and convenience
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1 gambling may play a significant role in the development of youthful gamblers. Further, with respect to all forms of legalized gambling, the Commission recommends that -- and then it goes on from there. Is that okay?

COMMISSIONER BIBLE: It’s okay with me.

COMMISSIONER LANNI: I would move the question.

CHAIR JAMES: All in favor?

(Ayes.)

Any opposed?

COMMISSIONER DOBSON: Opposed.

CHAIR JAMES: Okay. 39. The Commission recommends -- you’ve got to give credit for trying here, John. The Commission recommends that state and local governments grant relief to taxpayers through reductions in the present size and cost of government through restructuring, privatization, and other efficiencies, prior to considering lotteries as a means of additional income and government growth.

Having said it for the record, I will not offer that as a recommendation, but just as a strong encouragement that we ought to recognize that there are some opportunities to -- for states to consider revenue other than just taxing its citizens, as I believe you have said so eloquently through the regressive tax of lotteries.

Having said that, unless someone else would like to offer that.

40, the Commission recommends to state governments that in light of recent public concerns and reviews of lottery, vendors, and other states, each state attorney general review lottery vendors and subcontractors for questionable business practices in their state and other states.
The Commission further recommends that if this review reveals inappropriate practices in other states, the state attorney general begin an immediate review of the state contract with the vendor or subcontractors.

COMMISSIONER BIBLE: That’s covered, to a large extent, under 31.

CHAIR JAMES: Yeah. Hearing no motion, 41, the Commission recommends that state-sponsored lottery, marketing, and advertising should be banned or strictly curtailed. If allowed to continue, truth in advertising standards should be rigorously applied. Do I hear a motion?

Hearing none, the Commission recommends that regardless of whether advertising is curtailed, all lotteries, state operated or otherwise, should be required to disclose clearly, and in an obvious readably visible form, the odds of winning. Didn’t we cover that on another one?

COMMISSIONER LANNI: Yeah.

COMMISSIONER BIBLE: Yes.

CHAIR JAMES: Do I hear a motion on that one? I think it’s been covered.

COMMISSIONER DOBSON: I think it has.

CHAIR JAMES: The Commission recommends that a social impact statement similar to an environmental impact statement should be a condition of introducing any new statewide game run by a state lottery. I think that that one is being tabled and worked on right now, and so we’re going to eliminate that one.

COMMISSIONER McCARTHY: Mr. Leone is going to bring us the -- bringing them together like --

COMMISSIONER LEONE: I’m going to try.

CHAIR JAMES: We know you will.
44, the Commission recommends that whenever a casino is placed within 50 miles of a border with another state, a compact between those states be negotiated. The compact would address the issues of competition across state lines for gambling revenue to the satisfaction of both states. Was that one not included in --

COMMISSIONER BIBLE: We’ve had this one three times already.

COMMISSIONER DOBSON: That was --

CHAIR JAMES: Yeah.

COMMISSIONER DOBSON: That’s tabled, too, isn’t it? Isn’t that being --

CHAIR JAMES: Yes.

COMMISSIONER DOBSON: -- worked on?

CHAIR JAMES: Yes, it is. So we will eliminate that one.

The Commission recommends that warning labels should be placed on every gambling device. I think that one came up earlier this morning. And we’re done. Did that language not say device earlier?

COMMISSIONER BIBLE: I think it said all games, odds and warnings, all games.

CHAIR JAMES: But I think we raised -- you raised the question --

COMMISSIONER BIBLE: You can’t do the odds on games.

CHAIR JAMES: Yeah. So I think that one was covered, correct?

COMMISSIONER DOBSON: We said where feasible --

CHAIR JAMES: Right.
COMMISSIONER DOBSON: -- the other one.

CHAIR JAMES: Right. The Commission recommends that casino-style gambling should be confined to tourist destinations, whereby individuals have to make an effort to travel to gamble.

COMMISSIONER WILHELM: What? Gambling when?

CHAIR JAMES: The Commission recommends that casino-style gambling should be confined to tourist destinations. Is there a motion?

Hearing none, the Commission recommends that all states with commercial gambling operations should adopt statutes prohibiting political campaign contributions by casino license holders, similar to the one existing in New Jersey. This is on 3.47.

COMMISSIONER WILHELM: In the interest of getting some discussion about campaign contributions, I’ll move this.

CHAIR JAMES: Is there a second?

COMMISSIONER McCARTHY: And I will second it.

CHAIR JAMES: It has been moved and properly seconded. Discussion?

COMMISSIONER DOBSON: Madam Chair, I’d like to have somebody review for us what the New Jersey model is.

COMMISSIONER LEONE: Bill probably knows better than I.

COMMISSIONER BIBLE: I can remember when it was first --

COMMISSIONER LEONE: I don’t give to anybody, so I’m -- (Laughter.)

COMMISSIONER WILHELM: With the New Jersey model, the casinos don’t give directly, and they give all they want indirectly. That’s the New Jersey model.

COMMISSIONER BIBLE: No, I --
(Laughter.)

That's what it is.

COMMISSIONER LANNI: Yeah. But to be more technical --

(Laughter.)

-- it is prohibited for city, county, and state races. Obviously, federal races are not controlled by the state, so there is no limitation on federal races. That's a federal issue. That's the New Jersey model. It generally is the model in most jurisdictions, if I'm not mistaken. I know in Michigan you're not allowed to give, and I don't know what it is in Mississippi. In Louisiana, they make the rules up as they go along.

COMMISSIONER DOBSON: That's --

(Laughter.)

COMMISSIONER BIBLE: Probably in Louisiana you're required to give.

(Laughter.)

CHAIR JAMES: What is your pleasure? We are discussing this. We have some --

COMMISSIONER LANNI: Are you looking for a second?

CHAIR JAMES: No, we have a second.

COMMISSIONER LEONE: Well, I take it from a couple of the comments that -- since I know none of my colleagues are cynical --

(Laughter.)

-- I take it from a couple of the comments that campaign finance reform has worn down a couple of Commissioners. But that doesn't mean that campaign finance reform is a bad idea, or that the notion of prohibiting contributions to state and local and county officials in a state that has a highly regulated gambling industry is a bad idea.
So I don’t know if we want to have a reference to New Jersey or we want more generic language. But I think it’s a good idea.

CHAIR JAMES: Commissioner Wilhelm?

COMMISSIONER WILHELM: If I were approaching this from the narrow self-interests of our union, the union that I represent, I’d probably be for it, because in a narrow sense it would probably be great for us if the employers for whom our members work were politically hamstrung, and the union could do, you know, the things that every other organization in America can do.

But I’m not comfortable approaching it that way. I have a lot of trouble with this. I personally support -- vigorously support campaign finance reform in this country. I think campaign finance in this country is obscene, and I think that we are not going toward but already arrived at the point in our political dialogue where no idea, however meritorious, is going to get the time of day politically unless it’s backed up by enormous, almost incomprehensible sums of money.

So I very much support campaign finance reform, even if, as Richard suggests, some people may think that’s futile. But I do not understand the argument for singling out one particular industry. Secondly, based on my observations of the New Jersey exchange -- and I was not really being facetious before, although I may have said what I said facetiously or in a facetious tone -- the fact is that my observation is that casino companies in New Jersey find plenty of ways to make their dollars have an impact in New Jersey politics, and I don’t -- I’m not suggesting illegally. I want to be clearly understood.
But, you know, through individuals and through related firms and through suppliers and vendors and professional firms, and etcetera, and so forth. I don’t think they have any shortage of an ability to make their money --

COMMISSIONER WILHELM: Well, in this --

COMMISSIONER WILHELM: And then, just finally, you know, I am probably overly sensitive to this because in many states in the union -- 31 to be exact, including Nevada and California and a number of others -- last year there was a concerted effort, and financed by enormous sums of money from a handful of individuals, to hamstring the legitimate political -- financial political activity of union members.

And having spent so much energy defeating that, I am very sensitive to any corner of our society being singled out for political hamstringing. So I support campaign finance reform, but I do not support singling out a particular industry.

I mean, if we’re going to single out the gambling industry, for example, why do we let the tobacco industry make political contributions? Why do we let the automobile industry make political contributions? You know, they campaign against auto safety devices a lot of the time. So I am very troubled by the notion of singling out this or any industry.

COMMISSIONER BIBLE: And this recommendation really doesn’t single out the industry. This recommendation only singles out casino license holders. Pari-mutuel license holders would be able to continue to contribute. Tribal gaming would be able to continue to contribute under this particular recommendation.
And I’m more fundamentally concerned about the recommendation, as are you, that it doesn’t apply to automakers and oil people and tobacco interests and everyone else.

COMMISSIONER WILHELM: I don’t think, for example, that the states could prohibit tribal gambling entities from -- or tribes that have gambling from contributing. I’m troubled by this.

COMMISSIONER DOBSON: Madam Chair, I’m very troubled by our not having -- if we wind up not having a recommendation in regard to this issue, because the enormous amounts of money that are available from the gambling industry, and the influence that is being had -- being demonstrated throughout the democratic process, I am very, very concerned about that. And I think we should address it.

Now, whether or not we single out casinos or we broaden that is another matter. But I would really hate to see us not have some statement about the influence of gambling on the democratic process.

CHAIR JAMES: Jim, that was just the discussion that we were having down here. It seems to unfairly focus purely on the casino industry when, in fact, when you look at some of the past election history, it wasn’t necessarily casinos. In some cases, it was convenience gambling and some of the --

COMMISSIONER DOBSON: Lotteries.

CHAIR JAMES: -- the lotteries, and that sort of thing. So I have a problem with how it is particularly worded here, and I was asking Dick if he would consider some other language that would capture the spirit of what we’re trying to say here.

COMMISSIONER LEONE: I would consider that, and might consider including tobacco companies and a great many others.
CHAIR JAMES: For the purposes of this Commission, however, could we just leave it to the gambling industry? Well, can we table that one, and see if you can capture the spirit of what we’re trying to say here and come back to it? Or do you think you have something right now?

COMMISSIONER LEONE: No. I’d be glad to take another crack at it.

CHAIR JAMES: Then we will table that one. That’s 47.

COMMISSIONER LANNI: Right. It would have been.

CHAIR JAMES: Is there a motion?

COMMISSIONER LEONE: Yeah. I think it’s in the other language.

CHAIR JAMES: Hearing none, the Commission -- we’re on 3.49. The Commission recommends that pari-mutuel locations should be barred from allowing anyone under age 21 in areas where gambling transactions occur. Those under age 21 should only be permitted in the grandstand or other viewing area. Is there a motion?

COMMISSIONER McCARTHY: I’m not sure whether I understand why this is limited to pari-mutuel operations.

CHAIR JAMES: I think this came about, Leo, in our discussions during that particular portion of the document. And the concern was that they may come to view the race but parents
not want them involved or exposed to gambling. And so it came out as a result of that particular discussion that we had.

COMMISSIONER WILHELM: How is that different from families that go in a grocery store that has slot machines?

COMMISSIONER BIBLE: Or a lottery terminal.

COMMISSIONER WILHELM: Or a lottery terminal in a 7-11.

COMMISSIONER LANNI: I don’t think it would work.

CHAIR JAMES: Has anyone moved this? Kate, can you find that one for us and see if you can figure out where that came from?

COMMISSIONER DOBSON: Say that again.

COMMISSIONER BIBLE: On your list.

COMMISSIONER DOBSON: I’m sorry?

COMMISSIONER BIBLE: She said it’s on your list.

COMMISSIONER DOBSON: On my list. Well, when you’ve got lots of children, sometimes you don’t recognize them on the street.

(Laughter.)

CHAIR JAMES: What the Commissioner meant to say was --

COMMISSIONER BIBLE: Just name them all George.

(Laughter.)

CHAIR JAMES: Do I hear a motion? Hearing none, the --

COMMISSIONER BIBLE: Well, before we move on, just for discussion purposes, the first part of the recommendation is a loitering recommendation, that you don’t want individuals under 21 years of age to be loitering on the premises where gambling transactions are occurring. And that would seem reasonable to incorporate into the age restriction recommendation. At least that’s, I think, what you’re --

COMMISSIONER WILHELM: So there’s no motion.
COMMISSIONER BIBLE: It’s a loitering recommendation.

CHAIR JAMES: Right.

COMMISSIONER McCARTHY: Isn’t there -- didn’t we pass something about 21?

CHAIR JAMES: We did.

COMMISSIONER McCARTHY: Does it cover --

COMMISSIONER BIBLE: It should be because that’s a prohibition -- engaging the activity.

CHAIR JAMES: Tim, can you include that in the loitering?

COMMISSIONER BIBLE: The second part is that you only want the kids in the grandstands, which excludes them from the paddocks and the barns and everything else, which to me would make no sense.

CHAIR JAMES: All right. I’ve asked Dr. Kelly if he would include that in that other recommendation.

50, the Commission recommends that casino-style gambling should be permitted at racetracks only in such cases as the state has determined that the introduction of casinos should be a net benefit to the state. Such gambling should not be permitted solely to save a racetrack that the market has determined no longer serves the community. Did we not address this one?

COMMISSIONER BIBLE: I think we addressed it by postponing it until this one.

COMMISSIONER WILHELM: Yes.

CHAIR JAMES: So now we’ve --

COMMISSIONER BIBLE: Yeah. We moved the ball down to this area.
CHAIR JAMES: It’s fish or cut bait. Okay. Do I hear a motion?

COMMISSIONER LEONE: I’ll move that.

CHAIR JAMES: Do I hear a second? It has been moved and properly seconded. Discussion?

COMMISSIONER DOBSON: I’m a little concerned about the statement that says, "The state has determined that the introduction of casinos would be a net benefit to the state."
That’s really wishy-washy. I mean, the state is always going to come up with that. What do they need to make that determination?

COMMISSIONER LEONE: Yeah. I think Jim has got a point. I think what we really need to say here is that where a state is legalizing casino-like gambling, and decides that existing racetrack locations are among those places where it wants to permit such gambling, that’s one kind of decision.

Where a state is being asked to add casino-style games to a racetrack in order to keep it economically viable as a stand-alone decision, that’s a very different kind of decision that bothers us. That’s the slippery slope argument.

COMMISSIONER WILHELM: Yeah. But isn’t that what this says? Am I missing something?

COMMISSIONER LEONE: Well, I think it does sort of. It’s not as clear as it could be, but I think it does.

COMMISSIONER McCARTHY: Sounds like another one for Mr. Leone to --

COMMISSIONER LEONE: It’s not one I wrote. I mean, I’m not -- can’t we work this out right now?

CHAIR JAMES: Yes, let’s. The Commission recommends that casino-style gambling should be permitted at racetracks.
Jim, how would that language -- or could that language be changed to get rid of the troublesome part only in the case --

COMMISSIONER DOBSON: I haven’t yet thought that through. I just know I don’t like what’s here.

CHAIR JAMES: Okay.

COMMISSIONER DOBSON: Do you want to give me an opportunity to work on that?

CHAIR JAMES: Yes. Can we pass it for right now?

Would anyone object to that?

COMMISSIONER McCARTHY: Madam Chair, while I’m thinking about it, I meant to suggest this earlier, in all of these recommendations that are clearly to the state level, may I suggest that the recommendation be made specifically to the governor and the state legislature?

CHAIR JAMES: I have a note to that effect, and what I would suggest, Leo, is that we hold any action on that until --

COMMISSIONER McCARTHY: That’s fine.

CHAIR JAMES: -- we get through the end.

COMMISSIONER McCARTHY: That’s fine.

CHAIR JAMES: And then see if that still looks appropriate.

COMMISSIONER McCARTHY: And that could even be in one introductory sentence and doesn’t have to be repeated in every instance.

CHAIR JAMES: Right.

COMMISSIONER LANNI: Leo, one reason you may not want to do that is in certain states the regulators have, through regulation, the ability to do these things without the requirement or need to go to the legislative process. So I’m not so sure you should limit it.
COMMISSIONER McCARTHY: If it’s just a regulatory change where there is already statutory authority for them to promulgate regulations, then we should include that.

CHAIR JAMES: My note to myself says to the governor, state legislatures, or regulators, as appropriate. And we should review all of those recommendations with that -- regulatory bodies.

All right. So we passed 50. And, Jim, you’re going to continue to work on that one, to get rid of that --

COMMISSIONER DOBSON: Right.

CHAIR JAMES: -- troublesome language.

COMMISSIONER DOBSON: Right.

CHAIR JAMES: 51, the Commission recommends that state legislatures should prohibit the introduction of slot machines and other electronic devices into off-track betting facilities.

Is there a motion?

Hearing none, 52, the Commission recommends that betting on collegiate athletic events that is currently legal be banned altogether -- recommends that betting on collegiate athletic events -- that wording is horrible, but that’s what it says -- is currently -- be banned altogether.

COMMISSIONER DOBSON: Madam Chair, 3.52 and 3.53 are two sides of the coin. They are opposites or contrasting statements. We probably ought to look at them together, I would think.

COMMISSIONER BIBLE: We don’t think we could blend those two here?

(Laughter.)

COMMISSIONER DOBSON: That’s called a consensus report.
CHAIR JAMES: Why don’t we take a look at 52, look at that together before we entertain any motions.

COMMISSIONER DOBSON: Then I move that we accept 3.52.

CHAIR JAMES: Well, Jim, I was going to suggest that we look at 52 and 53 together.

COMMISSIONER DOBSON: I thought you said we were going to come back and take them individually.

CHAIR JAMES: No, no, no, no. I was suggesting that we look at them together as one --

COMMISSIONER DOBSON: That was my suggestion.

CHAIR JAMES: Right. I was agreeing with that.

COMMISSIONER DOBSON: Okay. Help me out here, Jim.

COMMISSIONER BIBLE: And I suggested 53, and I detected a complete lack of appetite the day I suggested that -- that kind of a recommendation to legalize sports wagers.

COMMISSIONER WILHELM: That’s a fair statement. That’s a bit of an understatement.

COMMISSIONER DOBSON: I was quoted as saying, "My goodness," when you did that.

CHAIR JAMES: So are you willing to --

COMMISSIONER BIBLE: I could hear you exhale the --

(Laughter.)

COMMISSIONER LEONE: So that means you’ll support 3.52, then.

CHAIR JAMES: Well, no, we haven’t gotten to the motions and seconds yet. We’re looking at those two in terms of language. Did I understand you to say that, Bill, when we -- that you would not necessarily move 53?

COMMISSIONER BIBLE: Well, I don’t think 53 is going anywhere, so we might as well not waste our time on it.
CHAIR JAMES: Okay. So that’s gone. So now we’re at 3.52, and I want to see if there is a motion for 3.52, and if we can get a second.

COMMISSIONER DOBSON: There is a motion.

CHAIR JAMES: There is a motion. Okay. And do I hear a second?

COMMISSIONER LEONE: I’ll second it.

CHAIR JAMES: We have a second. Discussion? 3.52.

COMMISSIONER McCARTHY: May I suggest that we not limit it to collegiate events, but rather to amateur events? There could be betting on amateur events at levels other than college.

CHAIR JAMES: That would have to be a friendly amendment. Dr. Dobson, would you have any opposition to that?

COMMISSIONER BIBLE: That really broadens it. Explain your rationale again.

COMMISSIONER McCARTHY: Well, that --

COMMISSIONER DOBSON: I think it implies young people. It implies the NCAA type of activity, and it wouldn’t be limited to that but that’s kind of where we’re headed with it. But if you take all --

CHAIR JAMES: How about collegiate and amateur?

COMMISSIONER DOBSON: -- all amateur, that could be soccer clubs for people, you know, 30 or older, or what have you.

CHAIR JAMES: Well, Jim, would you be opposed to collegiate and amateur?

COMMISSIONER BIBLE: That would probably be more accurate because a lot of collegiate athletics is almost professional.

(Laughter.)

CHAIR JAMES: Commissioner Lanni?
COMMISSIONER LANNI: I think if we had reviewed the acts of Congress, there is a -- Congress determined some years ago that sports wagering is limited to three states -- the State of Nevada, the State of Oregon, and the State of Delaware -- because they had preexisting laws in place. All other states are denied the right to have this. Why we are suggesting that Congress continue to do what they've already done I find inane at best.

COMMISSIONER WILHELM: Well, but isn’t the thrust of this recommendation to ban it in the three states where it’s permitted?

COMMISSIONER BIBLE: That would be the effect, yes.

COMMISSIONER DOBSON: It says banned altogether.

COMMISSIONER WILHELM: Which makes no sense to me at all. I mean, Congress has extensively debated this issue in recent years, at great length, and has settled on not expanding it any further. New Jersey -- some people in New Jersey want it to be permitted, to engage in sports gambling, and Congress concluded that it would not be expanded, nor would it be contracted. They, in essence, grandfathered the jurisdictions that already have the right.

And since Congress has debated that exhaustively in recent years on more than one occasion, my view is that, first of all, this recommendation is a complete waste of time because it’s not going anywhere. But more importantly, the burden of all of the testimony we heard is that the problem in sports gambling is the illegal sports gambling. It isn’t the very limited legal stuff. So to me, this is both irrelevant and also off target.

COMMISSIONER DOBSON: Madam Chair, it is not my recollection that the presentations made were exclusive of the
State of Nevada and others in regard to the -- let me start over. I believe it was Mr. Schomb who came here from the NCAA and talked at some length about the threat to amateur athletics, and especially collegiate sports, from gambling. Made this big case, and then didn’t apply any of that to Nevada and the other two states.

And even the people who came here from Nevada, as I recall, talked about the prohibition within Nevada of gambling on amateur athletics within that state. So it’s pretty well acknowledged, both inside those states and outside, that there is a danger here to amateur athletics. And why it should apply only to those states that don’t have it now I don’t understand.

COMMISSIONER BIBLE: Right. And I indicated, at least when I talked about 3.53, that I felt that regardless of what we did in terms of sports wagering, we’re going to have a minimal impact at best; 99-9/10 of the activity that goes on today is illegal. It’s not legal sports wagering.

I think if we’re deluding ourselves into thinking we’re going to affect that, I think we’re just not facing up to reality, and I would not support it. If anything, I’d indicate, as I did in 3.53, that it probably should be expanded, and this is the one area where it should be legalized, just legalize the activity. But that’s not going to prevail.

CHAIR JAMES: Commissioner Leone?

COMMISSIONER LEONE: You know, I think that the reasoning on this in Nevada is on its head. I think Nevada should be permitted to have gambling on collegiate sports events if they take place in Nevada and nowhere else.

COMMISSIONER BIBLE: And we do it just the reverse.
COMMISSIONER LEONE: And I don’t see how it can be justified. I mean, I think if you can -- if you ban gambling on the things that take place and the events that take place on your own colleges, because you’re concerned about the potential negative effect, or otherwise just doing it capriciously, then I don’t see how it can be justified to permit gambling on activities in other states.

And the fact that the Congress has exhaustively debated it, or that Nevada is not going to change its rules, doesn’t change the fact that I want to go on the record as thinking we ought to ban gambling on collegiate and other amateur events in the United States.

You know, that doesn’t make much sense in some -- I don’t want to render the report frivolous. But I don’t think this is a frivolous recommendation, in that I think it’s based on some real issues.

CHAIR JAMES: Commissioner Lanni?

COMMISSIONER LANNI: One of the -- and I followed a lot of that debate in Congress on that particular issue. One of the reasons that the people who supported a restriction moved as quickly as they did, they were fearful that the number of states that now have legalized casino gambling would request the same rights that Nevada has.

They gave New Jersey a one-year option to bring itself together for entirely separate political reasons within the two parties. That didn’t come before the Assembly and the Senate. I think if you -- for those of you who are opposed to this and don’t want to see it expanded, by opening this as an issue I think you’ll see a hue and cry from the states like Mississippi,
Louisiana, New Jersey, and others, saying, "Wait a minute. We want to revisit this, and we should have the right to do it."

COMMISSIONER BIBLE: I think you’re right, at least in --

COMMISSIONER LANNI: I think you’re --

COMMISSIONER BIBLE: Mississippi has gone on record indicating they want --

COMMISSIONER LANNI: I think you’re making a mistake by doing this. I think if you leave well enough alone, it’s -- and this is not -- we operate in different states, so it’s not a self-serving comment. I think you’d be better off leaving it where it is.

Delaware has it on the books but has done nothing affirmatively to try to bring it about. Oregon is limited to the fact that they have these lottery cards that are tied to sports engagements, which include I think amateur and professional. And otherwise it’s in Nevada. I think you’d be making a mistake.

CHAIR JAMES: Commissioner Moore?

COMMISSIONER MOORE: For information, now in Nevada, you don’t -- if you’re an MGM Grand, you don’t have betting on sports events, right?

COMMISSIONER LANNI: Yes, we do. We have sports book, and we have a race book. It’s quite legal, and I think most of the institutions in Nevada have --

COMMISSIONER MOORE: Do most of them have it? I thought it was --

COMMISSIONER BIBLE: Yes. Most of the larger casinos have race and sports books.

CHAIR JAMES: Commissioner Dobson?
COMMISSIONER DOBSON: Madam Chair, I’d like to ask Commissioner Lanni, do you agree that sports wagering in Nevada should be harmful to the universities -- to the athletic contests in Nevada? And if so, why would that not apply anywhere else?

COMMISSIONER LANNI: Well, it’s technically not -- Bill can correct me -- I don’t think it’s technically -- you could bring two amateur teams into Nevada that are non -- I think it was just UNLV and UNR, isn’t it? I don’t think it’s limited -- if you brought in USC and UCLA to play a football game, would you be prohibited from gambling on that?

COMMISSIONER BIBLE: No. I think you could wager that game. It’s for an institution that’s located within Nevada.

COMMISSIONER LANNI: Yeah. I think it’s just really for institutions located within Nevada, wherever they play.

COMMISSIONER DOBSON: The question is the same.

COMMISSIONER LANNI: I’m sorry. Why don’t you ask it again. I just wanted to --

COMMISSIONER DOBSON: Okay. The question is: if that -- even in those two universities, the case of those two universities, if that’s damaging or potentially damaging to the integrity of amateur athletics there, why not elsewhere? Why not in other states? Why not in states that are affected by that in Oklahoma or Texas or Pennsylvania?

COMMISSIONER LANNI: I didn’t promulgate the regulation. I think you’d have to ask Mr. Bible as to the cause of the factor for that.

COMMISSIONER BIBLE: And that was never in the regulation and was debated. My understanding is they wanted to avoid any kind of a hint of impropriety involving a Nevada-based team.
COMMISSIONER LANNI: You know, there are restrictions in Nevada. For example, in London and throughout the U.K., you can wager on presidential elections. The election in Israel today, you could have wagered on that if you wanted to. That is not allowed under regulation or statute. I’m not sure which in the State of Nevada. You can’t bet on the Academy Awards and things of that nature.

COMMISSIONER DOBSON: Well, I’m just concerned about the influence on the kids that are in college. They have enormous amounts of money, incredibly important futures at stake, and they can obviously, by compromising just a little bit here and there, can undermine the integrity of the game and the young people themselves.

COMMISSIONER BIBLE: And interestingly enough, if you look at all of the recent scandals in sports, they did not involve legalized wagering. It was all illegal wagering. I think all you do is you just drag the activity underground.

CHAIR JAMES: My sense is that this is a debate that could go on for a fairly lengthy period of time. However, I wonder if we’re ready to call for the vote.

COMMISSIONER DOBSON: Let’s call for the question.

CHAIR JAMES: All in favor?

(Ayes.)

Opposed?

(Nays.)

COMMISSIONER WILHELM: Abstain.

CHAIR JAMES: Abstain. I think we’re going to need to do a roll call on that, just to be clear.

Commissioner Bible?

COMMISSIONER BIBLE: No.
CHAIR JAMES: Commissioner Dobson?

COMMISSIONER DOBSON: Yes.

CHAIR JAMES: Commissioner Lanni?

COMMISSIONER LANNI: No.

CHAIR JAMES: Commissioner Leone?

COMMISSIONER LEONE: Yes.

CHAIR JAMES: Commissioner Loescher?

COMMISSIONER LOESCHER: No.

CHAIR JAMES: Commissioner McCarthy?

COMMISSIONER McCARTHY: Yes.

CHAIR JAMES: Commissioner Moore?

COMMISSIONER MOORE: Yes.

CHAIR JAMES: Commissioner Wilhelm?

COMMISSIONER WILHELM: Abstain.

CHAIR JAMES: Abstain. And Commissioner James votes yes. So let’s see what that does. Five yes. The motion carries. Five yes, three no, and one abstention.

All right. 54, the Commission recommends that state and federal laws prohibiting sports wagering focus the weight of the law on bookies and others who set up sports wagering businesses, not on people who simply wager among themselves. I don’t know.

COMMISSIONER BIBLE: That’s J.S., that must have been Mr. Shosky.

CHAIR JAMES: Do I hear a motion? Hearing none, let’s move over to Section 4, Gambling and Addiction. Much of what we’re about to go through has been preempted. All will show up in the research section and some of the things that we passed this morning.
COMMISSIONER WILHELM: If that’s the case, would it make sense to do the research section before we do this section?

CHAIR JAMES: I’m not so sure.

COMMISSIONER WILHELM: Okay. Just asking.

CHAIR JAMES: It’s not quite that many.