NATIONAL GAMBLING IMPACT STUDY COMMISSION

SECOND REGULAR MEETING

Tuesday,
August 19, 1997

The meeting took place in the Chesapeake Room,
Watergate Hotel, 2650 Virginia Avenue, N.W.,
Washington, D.C. 20037, at 9:00 a.m., Kay C. James,
Chairperson, presiding.

PRESENT:

KAY C. JAMES, Chair
WILLIAM A. BIBLE, Commissioner
JAMES C. DOBSON, Commissioner
J. TERRENCE LANNI, Commissioner
RICHARD C. LEONE, Commissioner
ROBERT W. LOESCHER, Commissioner
LEO T. MCCARTHY, Commissioner
PAUL H. MOORE, Commissioner
JOHN W. WILHELM, Commissioner
CALVIN SNOWDEN, Agency Liaison

SENATOR RICHARD BRYAN, Speaker
FRANK FAHRENKOPF, JR., Speaker
CHARLES GRIFFITHS, Speaker
RICK HILL, Speaker
FAITH MITCHELL, Speaker
CAROL PETRIE, Speaker
BARBARA TORREY, Speaker

ALSO PRESENT:

ERIC ALTMAN               STEVE REED
TIM BIDWILL, Staff        ROBERT REGIER, Staff
MARK BOGDAN, Staff        RON RENO
PAUL CONWAY               CAROL SIMPSON, Staff
DEBORAH DUCRE, Staff      CRAIG STEVENS, Staff
JOHN LITTEL               TODD WESTERGARD
MATT LOWERS               STEVE WHITE, Staff
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(9:04 a.m.)

CHAIRPERSON JAMES: I'm going to call the meeting to order. If Commissioners could take their chairs, please. Good morning. Let me start with a housekeeping announcement. You may hear some of the feedback on the microphones. So we are going to ask Commissioners that if you are not speaking to turn your microphone off and turn it on again. Is that what you need? Evidently, there is a button somewhere on the top if you can find it. That would help facilitate with the noise problem.

Good morning, Commissioners, guests, and members of the media. Welcome to the second regular meeting of the National Gambling Impact Study Commission. In addition to hearing from invited speakers and discussing the research contracts, this meeting will be devoted to important administrative matters. While the time that has passed since our last meeting is only two months, I can tell you that this seems much longer to the many individuals who have been working on resolving the routine and yet
complicated administrative issues related to a
national commission start-up.

I want to start the meeting again today by
thanking those individuals whose efforts were
instrumental in making this meeting a reality. In
particular, I applaud the staff of the General
Services Administration represented by our liaison,
Calvin Snowden. I also want to extend my appreciation
to the personal staffs of the Commissioners, who have
been extremely patient. The start-up of any
government organization is frustrating and filled with
bugs and pitfalls. The Commission is no exception and
I am grateful for the consistent cooperation that we
have experienced from each of the Commissioners and
from their staffs.

Lastly, I want to thank the Commissioners
for their input and efforts during this time,
particularly Commissioner McCarthy. He and
Commissioners Dobson and Wilhelm have worked
diligently to produce objective information for the
Commission to consider today. And to those
Commissioners who have provided suggestions, staff
recommendations, and asked meaningful questions about our work, again I want to thank you as well.

The danger of dealing with administrative issues is that they can quickly consume all of our energy and direct us away from the truly important work that needs to be done. Fortunately, the media remind us on an almost daily basis about the gravity of the issues that we are charged with considering.

My office staff and I, particularly those people working in our mailroom have become acutely aware in the past three months about the volumes of articles and news stories that are being published about gambling. If any of you made it up in time this morning, you will see on the front page of the Washington Post yet another article dealing with these important issues.

The three stories that I want to call your attention to this morning that have been in the press in the past two weeks illustrate the vital importance of the Commission and what our deliberations will have. First, in Maryland, was the revelation that the Maryland lottery had targeted senior citizens in
special marketing campaigns, and this included prizes
of T-shirts and other premiums for those individuals
living in nursing homes who played the lottery.

Secondly, there were the allegations made
about the role of legalized gambling in the disputed
Senate seat in Louisiana, which resulted in several
subpoenas being issued by the U.S. Senate Rules
Committee for an upcoming hearing in New Orleans,
including at least one gambling executive.

Finally, related to an issue we will hear
more about later today, the first full Internet based
gambling site was launched by the Coeur D'Alene tribe
in Idaho prompting several lawsuits and numerous
articles.

These are timely reminders of the
important issues that we will consider. These are
truly important issues. I think it is important for
us to do our work today, getting through the
administrative portion of our agenda, so that we can
begin to look at the real meat of the work of this
Commission.

What is our work here? Unfortunately, it
bears repeating yet again because it has been
misunderstood and incorrectly described by so many.
It is not to draft legislation to prohibit gambling.
Nor is it to tell the states how they should regulate
gambling. Nor is it to impose a moral judgment on
either the merits or negatives of gambling. It is
simply, if I may use that word, to do what the
American people, through their elected representatives
in Congress, have asked us to do, and that is to
conduct a comprehensive, factual, and legal study of
the social and economic impact of legalized gambling.

As Senator Lugar said during the floor
debate on the bill that created this Commission,
information is the goal of this commission, and
information will strengthen the democratic decision-
making process. Commissioner McCarthy noted how
important the work of the commission will be to the
thousands of policy makers at the state and local
level who are considering laws and policies for
gambling. They and others in the legislatures, town
halls, and communities of America are waiting to see
what we discover, our analysis of that information,
Before we begin that process, I want to report on the work that we have been doing in the past two months, primarily on those bedeviling administrative details. Working with GSA's property management staff, we examined several properties in the Washington area for office space. We selected and have moved into an office suite at 800 North Capitol Street, which coincidentally is the same building as the Federal Register and the new home of the Advisory Commission on Intergovernmental Relations.

I have interviewed many individuals for positions on the Commission staff, which we will discuss later this morning. In addition, I have requested detailees from eight cabinet departments. Two departments, the Department of Education and the Department of State, have contacted us at this point to get further information. The Department of State expressed their pleasure at our having contacted them, but indicated that at this point they do not believe they have the resources available to meet our specific needs. The Department of Education is working
internally to identify potential detailees, and I will provide an update on this process by the next meeting.

Based on the direction of the Commission at the last meeting, I have spent considerable time addressing the legal issues and representation for the Commission. Let me attempt to clarify the Commission's status at this point, and Calvin Snowden can expand upon this later if necessary. The Commission is a hybrid in every respect. There is no federal executive agency with clear oversight authority. The Office of Personnel Management and the Office of Legal Counsel at DOJ have determined that the Commission is a legislative commission. As such, under a practice known as the Odd/Even Rule, the United States Senate has certain jurisdiction since the law was enacted in an even year.

As was discussed at the last meeting, the General Services Administration has determined that the Commission is subject to the Federal Advisory Commission Act as an independent presidential advisory committee. This has been informally affirmed by numerous agencies with involvement in these activities.
and is indicated to be the intent of Congress according to the floor debate in the Senate. This means that we have certain standards, certain rules and requirements, all of which are designed to insure that policy is discussed in an open and honest manner. While burdensome, these rules protect the Commission and individual Commissioners, but more importantly, they protect the American public.

GSA, by the provisions of Executive Order No. 12024, regulations enacted for the Advisory Committee Act and through the memorandum of understanding entered into with the Commission shall provide administrative, legal, and other services associated with the operation of the Commission under FACA.

A few Commissioners asked that I inquire about the possibility of legal counsel from the Department of Justice, which I did. While the Attorney General is constitutionally the attorney for the entire Executive Branch, it is unusual for the Department to provide such service to a board or
commission. In fact, in a ruling from the Office of Legal Counsel at DOJ dated August 14, 1997, the Department has declined to provide legal services to the Commission, citing our standard as a Legislative rather than an Executive Branch agency. This letter was distributed this morning. GSA's legal counsel will continue to provide legal services. They are copying the letter and it should be here momentarily.

What all of this means is the following.

For the purposes of general operation guidelines and authority, the Commission follows the Federal Advisory Committee Act and subsequent regulations. For the purpose of financial disclosure forms, only Commissioners and staff working in excess of 60 days per year and earning $84,000.00 or more must submit Senate disclosure forms to the Senate Ethics Committee. The chairman is responsible to insure that no conflict of interest shall exist, and we will discuss this later in the meeting, since Congress clearly intended for members of the industry to participate in this Commission.

The members of the Commission are special
government employees protected by the Federal Tort
Claims Act, but not subject to the standards of
conduct which apply to regular Executive Branch
employees.

The General Accounting Office has
jurisdiction over matters or disputes related to the
appropriation for the Commission, and GSA will provide
support services, including legal services, to the
Commission. In the event that a general counsel is
hired, this individual will work in conjunction with
legal counsel of GSA. Again, Mr. Snowden can explain
this in greater detail later today.

It is important to keep these principles
in mind as we proceed through the next two days,
particularly as we discuss the rules tomorrow. The
Federal Advisory Committee Act is intended to protect
the American public by insuring that policy is debated
and developed in an open and fair manner. It is also
one of the single greatest sources of litigation at
the federal level. It is my responsibility and my
desire to insure that the public have the greatest
amount of participation available, while at the same
time to protect the Commission and Commissioners from unnecessary and burdensome litigation.

Now today's agenda includes presentations from Senator Richard Bryan, American Gaming Association president, Frank Fahrenkopf, and Rick Hill, the Chairman of the National Indian Gaming Association, as well as a discussion of the proposed research questions and contracts. Tomorrow, we will discuss the proposed Commission rules, the workplan, proposed subcommittees, and hear from interested members of the public.

In closing, I want to reiterate something that I stated at the first meeting. I intend to use my role as chair to protect the diversity of opinion regarding legalized gambling that exists on this Commission, and indeed throughout the nation. This diversity is crucial to the discussion we shall have over the next two years. My role as chair will be to guarantee that diversity, to insure that the proceedings of the Commission are conducted in a fair, balanced, and objective manner that respectfully permits divergent opinions and includes factual
information crucial to the completion of our task at hand, namely to conduct a comprehensive legal and factual study of the social and economic impacts of gambling.

Again, Commissioners and public, thank you for being here today. In your briefing materials behind Tab 2, you will find a copy of the minutes from the last meeting of the Commission. These are a summary of the transcript as required by law. And as I stated at the last meeting, the full transcripts are always available for the Commissioners to review. At this point, I would like to entertain a motion to adopt the minutes?

COMMISSIONER LOESCHER: Madam Chair?

CHAIRPERSON JAMES: Yes.

COMMISSIONER LOESCHER: I would like to ask that we defer this kind of a question until after these presentations are over and then we would start with the consideration of approval of the agenda and then the minutes and what so on.

CHAIRPERSON JAMES: If that is your pleasure, I certainly have no problem with that.
COMMISSIONER LOESCHER: Thank you very much.

CHAIRPERSON JAMES: Moving along, we are fortunate -- we were fortunate at our last meeting to hear from the original sponsors of the legislation which created this Commission. Let me emphasize yet again that they were invited because they were the sponsors of the legislation and it was important to hear from them. Today, we are joined by a member of Congress who has had many constituents with firsthand knowledge of the social and economic impact of legalized gambling. Senator Richard Bryan, a native of Southern Nevada, was re-elected to a second term in the United States Senate on November 8, 1994. He has also served as Governor of that state. For more than a decade, he has been an ardent advocate for the consumer. He has championed increased consumer protection, efforts to curb illegal immigration, and limit federal spending and has participated in numerous bills related to gambling. I know that this is, in fact, an important day in your state, Senator, with the surprise visit of Secretary Pena to discuss